

1 John D. Vaughn, State Bar No. 171801
Jeffrey A. Feasby, State Bar No. 208759
2 Christopher W. Rowlett, State Bar No. 257357
PEREZ VAUGHN & FEASBY Inc.
3 600 B Street, Suite 2100
San Diego, California 92101
4 Telephone: 619-702-8044
Facsimile: 619-460-0437
5 E-Mail: vaughn@pvflaw.com

6 Jeffrey L. Fillerup, State Bar No. 120543
Rincon Law LLP
7 90 New Montgomery St
Suite 1400
8 San Francisco, California 94105
Telephone: (415) 996-8199
9 Facsimile: (415) 996-8280
E-Mail: jfillerup@rinconlawllp.com

10
11 Attorneys for Defendant and Counterclaimant
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

24 Defendant.
25

26
27 **AND RELATED COUNTERCLAIMS**
28

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

Hon. Manuel L. Real

**WINDERMERE REAL ESTATE
SERVICES COMPANY'S
EVIDENTIARY OBJECTIONS TO
THE DECLARATION OF JOSEPH
R. DEVILLE IN OPPOSITION TO
APPLICATION FOR RIGHT TO
ATTACH ORDERS AND ORDERS
FOR WRITS OF ATTACHMENT
[Document No. 114-2]**

Date: May 15, 2015

Time: 10:00 a.m.

Courtroom: 8

1 Defendant and Counterclaimant Windermere Real Estate Services Company
2 (“WSC”) respectfully submits the following evidentiary objections to the
3 Declaration of Joseph R. Deville in Opposition to Windermere Real Estate Services
4 Company’s Application for Right to Attach Orders for Issuance of Writs of
5 Attachment (“Declaration”).

6 **Objection Number 1**

7 Paragraph 4, the portions that read “As a preliminary matter, my review of the
8 materials submitted by WSC and the amount that it seeks to attach suggest that the
9 Application is being pursued for an improper purpose.” And “WSC’s Application
10 for writs of attachment is an attempt to create judicial liens on the property of the
11 B&D Parties – more than 14 months after the lawsuit was commenced – is [sic]
12 something that WSC use [sic] in its discussion with potentials [sic] clients, brokers,
13 and agents to spread the fallacy that the B&D Parties are insolvent or otherwise
14 incapable of paying their debts.”

15 **Grounds for Objection 1:**

16 **Improper Argument/Conclusions.** The statements identified are improper
17 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
18 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
19 plaintiff’s self-serving declaration if it states conclusions rather than admissible
20 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
21 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
22 insufficient to defeat summary judgment”).

23 **Lacks Foundation.** The statements identified lack proper foundation as there
24 is no admissible evidence sufficient to support a finding that the declarant has
25 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
26 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
27 with personal knowledge; declarations not based on personal knowledge are
28 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may

1 “disregard a self-serving declaration for purposes of summary judgment” when the
2 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
3 no indication how [the declarant] knows [these facts] to be true.” [Quotations
4 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
5 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
6 personal knowledge).

7 **Objection Number 2**

8 Paragraph 5, the portion that reads “There is no justification for the requested
9 writs.”

10 **Grounds for Objection 2:**

11 Improper Argument/Conclusions. The statements identified are improper
12 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
13 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
14 plaintiff's self-serving declaration if it states conclusions rather than admissible
15 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
16 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
17 insufficient to defeat summary judgment”).

18 Lacks Foundation. The statements identified lack proper foundation as there
19 is no admissible evidence sufficient to support a finding that the declarant has
20 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
21 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
22 with personal knowledge; declarations not based on personal knowledge are
23 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
24 “disregard a self-serving declaration for purposes of summary judgment” when the
25 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
26 no indication how [the declarant] knows [these facts] to be true.” [Quotations
27 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200

28 ///

1 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
2 personal knowledge).

3 **Objection Number 3**

4 Paragraph 5, the portion that reads “Neither I nor any of my companies are
5 insolvent and – setting aside the issue of liability – we are fully capable of satisfying
6 a judgment in the amount that Windermere seeks in this case.”

7 **Grounds for Objection 3:**

8 **Lacks Foundation.** The statements identified lack proper foundation as there
9 is no admissible evidence sufficient to support a finding that the declarant has
10 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
11 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
12 with personal knowledge; declarations not based on personal knowledge are
13 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
14 “disregard a self-serving declaration for purposes of summary judgment” when the
15 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
16 no indication how [the declarant] knows [these facts] to be true.” [Quotations
17 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
18 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
19 personal knowledge).

20 **Objection Number 4**

21 Paragraph 6 in its entirety.

22 **Grounds for Objection 4:**

23 **Improper Argument/Conclusions.** The statements identified are improper
24 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
25 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
26 plaintiff's self-serving declaration if it states conclusions rather than admissible
27 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502

28 ///

1 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
2 insufficient to defeat summary judgment”).

3 Lacks Foundation. The statements identified lack proper foundation as there
4 is no admissible evidence sufficient to support a finding that the declarant has
5 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
6 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
7 with personal knowledge; declarations not based on personal knowledge are
8 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
9 “disregard a self-serving declaration for purposes of summary judgment” when the
10 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
11 no indication how [the declarant] knows [these facts] to be true.” [Quotations
12 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
13 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
14 personal knowledge).

15 Objection Number 5

16 Paragraph 7 in its entirety.

17 **Grounds for Objection 5:**

18 Improper Argument/Conclusions. The statements identified are improper
19 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
20 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
21 plaintiff's self-serving declaration if it states conclusions rather than admissible
22 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
23 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
24 insufficient to defeat summary judgment”).

25 Lacks Foundation. The statements identified lack proper foundation as there
26 is no admissible evidence sufficient to support a finding that the declarant has
27 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
28 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made

1 with personal knowledge; declarations not based on personal knowledge are
2 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
3 “disregard a self-serving declaration for purposes of summary judgment” when the
4 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
5 no indication how [the declarant] knows [these facts] to be true.” [Quotations
6 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
7 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
8 personal knowledge).

9 **Objection Number 6**

10 Paragraph 8 in its entirety.

11 **Grounds for Objection 6:**

12 **Improper Argument/Conclusions.** The statements identified are improper
13 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
14 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
15 plaintiff's self-serving declaration if it states conclusions rather than admissible
16 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
17 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
18 insufficient to defeat summary judgment”).

19 **Lacks Foundation.** The statements identified lack proper foundation as there
20 is no admissible evidence sufficient to support a finding that the declarant has
21 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
22 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
23 with personal knowledge; declarations not based on personal knowledge are
24 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
25 “disregard a self-serving declaration for purposes of summary judgment” when the
26 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
27 no indication how [the declarant] knows [these facts] to be true.” [Quotations
28 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200

1 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
2 personal knowledge).

3 **Objection Number 7**

4 Paragraph 9, the use of “viable” at page 6, line 19.

5 **Grounds for Objection 7:**

6 **Improper Argument/Conclusions.** The statements identified are improper
7 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
8 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
9 plaintiff's self-serving declaration if it states conclusions rather than admissible
10 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
11 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
12 insufficient to defeat summary judgment”).

13 **Lacks Foundation.** The statements identified lack proper foundation as there
14 is no admissible evidence sufficient to support a finding that the declarant has
15 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
16 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
17 with personal knowledge; declarations not based on personal knowledge are
18 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
19 “disregard a self-serving declaration for purposes of summary judgment” when the
20 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
21 no indication how [the declarant] knows [these facts] to be true.” [Quotations
22 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
23 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
24 personal knowledge).

25 **Objection Number 8**

26 Paragraph 10, the portion that reads “Conveniently, WSC’s Application does
27 not account for, and fails to even mention, many of the B&D Parties’ claims that
28 defeat – or, at a minimum, offset – the counterclaims asserted by WSC.”

1 **Grounds for Objection 8:**

2 Improper Argument/Conclusions. The statements identified are improper
3 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
4 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
5 plaintiff's self-serving declaration if it states conclusions rather than admissible
6 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
7 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
8 insufficient to defeat summary judgment”).

9 Lacks Foundation. The statements identified lack proper foundation as there
10 is no admissible evidence sufficient to support a finding that the declarant has
11 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
12 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
13 with personal knowledge; declarations not based on personal knowledge are
14 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
15 “disregard a self-serving declaration for purposes of summary judgment” when the
16 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
17 no indication how [the declarant] knows [these facts] to be true.” [Quotations
18 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
19 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
20 personal knowledge).

21 **Objection Number 9**

22 Paragraph 11 in its entirety.

23 **Grounds for Objection 9:**

24 Improper Argument/Conclusions. The statements identified are improper
25 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
26 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
27 plaintiff's self-serving declaration if it states conclusions rather than admissible
28 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502

1 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
2 insufficient to defeat summary judgment”).

3 Lacks Foundation. The statements identified lack proper foundation as there
4 is no admissible evidence sufficient to support a finding that the declarant has
5 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
6 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
7 with personal knowledge; declarations not based on personal knowledge are
8 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
9 “disregard a self-serving declaration for purposes of summary judgment” when the
10 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
11 no indication how [the declarant] knows [these facts] to be true.” [Quotations
12 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
13 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
14 personal knowledge).

15 Objection Number 10

16 Paragraph 14, the portion that reads “I received numerous complaints from
17 my brokers, agents, and employees alerting me that the prominent placement of
18 Windermere Watch – and its anti-Windermere marketing campaign – in the internet
19 search results was diverting potential clients away from WSC’s brokers and agents.”

20 **Grounds for Objection 10:**

21 Hearsay. The statements regarding statements made by third parties are
22 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
23 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
24 declaration not admissible for purposes of attachment proceedings).

25 Objection Number 11

26 Paragraph 14, the portion that reads “In fact, my companies lost agents
27 because they no longer wanted to be associated with Windermere because of the
28 Windermere Watch website.”

1 **Grounds for Objection 11:**

2 Lacks Foundation. The statements identified lack proper foundation as there
3 is no admissible evidence sufficient to support a finding that the declarant has
4 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
5 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
6 with personal knowledge; declarations not based on personal knowledge are
7 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
8 “disregard a self-serving declaration for purposes of summary judgment” when the
9 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
10 no indication how [the declarant] knows [these facts] to be true.” [Quotations
11 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
12 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
13 personal knowledge).

14 **Objection Number 12**

15 Paragraph 16, the portion that reads “Again, I have viewed more than a dozen
16 of these postcards first hand and they appear to contain printouts of the same anti-
17 Windermere propaganda that was on the Windermere Watch website.”

18 **Grounds for Objection 12:**

19 Hearsay. The statements regarding the contents of the postcards is
20 inadmissible hearsay. FRE 801, 802.

21 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
22 content of documents. FRE 1002, 1007.

23 **Objection Number 13**

24 Paragraph 17 in its entirety.

25 **Grounds for Objection 13:**

26 Improper Argument/Conclusions. The statements identified are improper
27 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
28 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard

1 plaintiff's self-serving declaration if it states conclusions rather than admissible
2 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
3 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
4 insufficient to defeat summary judgment”).

5 Lacks Foundation. The statements identified lack proper foundation as there
6 is no admissible evidence sufficient to support a finding that the declarant has
7 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
8 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
9 with personal knowledge; declarations not based on personal knowledge are
10 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
11 “disregard a self-serving declaration for purposes of summary judgment” when the
12 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
13 no indication how [the declarant] knows [these facts] to be true.” [Quotations
14 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
15 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
16 personal knowledge).

17 **Objection Number 14**

18 Paragraph 18 in its entirety.

19 **Grounds for Objection 14:**

20 Hearsay. The statements regarding the contents of the postcards is
21 inadmissible hearsay. FRE 801, 802.

22 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
23 content of documents. FRE 1002, 1007.

24 **Objection Number 15**

25 Paragraph 19 in its entirety.

26 **Grounds for Objection 15:**

27 Improper Argument/Conclusions. The statements identified are improper
28 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*

1 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
2 plaintiff's self-serving declaration if it states conclusions rather than admissible
3 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
4 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
5 insufficient to defeat summary judgment”).

6 Lacks Foundation. The statements identified lack proper foundation as there
7 is no admissible evidence sufficient to support a finding that the declarant has
8 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
9 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
10 with personal knowledge; declarations not based on personal knowledge are
11 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
12 “disregard a self-serving declaration for purposes of summary judgment” when the
13 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
14 no indication how [the declarant] knows [these facts] to be true.” [Quotations
15 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
16 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
17 personal knowledge).

18 Objection Number 16

19 Paragraph 21 in its entirety.

20 **Grounds for Objection 16:**

21 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
22 content of documents. FRE 1002, 1007.

23 Objection Number 17

24 Paragraph 22 in its entirety.

25 **Grounds for Objection 17:**

26 Improper Argument/Conclusions. The statements identified are improper
27 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
28 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard

1 plaintiff's self-serving declaration if it states conclusions rather than admissible
2 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
3 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
4 insufficient to defeat summary judgment”).

5 Lacks Foundation. The statements identified lack proper foundation as there
6 is no admissible evidence sufficient to support a finding that the declarant has
7 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
8 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
9 with personal knowledge; declarations not based on personal knowledge are
10 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
11 “disregard a self-serving declaration for purposes of summary judgment” when the
12 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
13 no indication how [the declarant] knows [these facts] to be true.” [Quotations
14 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
15 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
16 personal knowledge).

17 Objection Number 18

18 Paragraph 23, the portion that reads “Despite this call and the initial
19 appearance that WSC would take action against Windermere Watch, my subsequent
20 interactions with WSC’s executives, their deposition testimony, and the documents
21 produced in this case reveal that nothing happened until October 2014, at the
22 earliest.”

23 **Grounds for Objection 18:**

24 Improper Argument/Conclusions. The statements identified are improper
25 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
26 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
27 plaintiff's self-serving declaration if it states conclusions rather than admissible
28 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502

1 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
2 insufficient to defeat summary judgment”).

3 Lacks Foundation. The statements identified lack proper foundation as there
4 is no admissible evidence sufficient to support a finding that the declarant has
5 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
6 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
7 with personal knowledge; declarations not based on personal knowledge are
8 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
9 “disregard a self-serving declaration for purposes of summary judgment” when the
10 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
11 no indication how [the declarant] knows [these facts] to be true.” [Quotations
12 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
13 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
14 personal knowledge).

15 **Objection Number 19**

16 Paragraph 24 in its entirety.

17 **Grounds for Objection 19:**

18 Lacks Foundation. The statements identified lack proper foundation as there
19 is no admissible evidence sufficient to support a finding that the declarant has
20 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
21 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
22 with personal knowledge; declarations not based on personal knowledge are
23 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
24 “disregard a self-serving declaration for purposes of summary judgment” when the
25 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
26 no indication how [the declarant] knows [these facts] to be true.” [Quotations
27 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200

28 ///

1 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
2 personal knowledge).

3 **Objection Number 20**

4 Paragraph 25 in its entirety.

5 **Grounds for Objection 20:**

6 Hearsay. The statements regarding the contents of emails from Bennion and
7 Deville are inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v.*
8 *CHF Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements
9 in declaration not admissible for purposes of attachment proceedings).

10 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
11 content of documents. FRE 1002, 1007.

12 Improper Inference: Any inference the declarant seeks to draw from the
13 assertion of the attorney-client privilege is improper. *See Nabisco, Inc. v. PF*
14 *Brands, Inc.*, 191 F3d 208, 226 (2nd Cir. 1999) (abrogated on other grounds in
15 *Moseley v. V Secret Catalogue, Inc.*, 537 U.S. 418 (2003)).

16 **Objection Number 20(a)**

17 Exhibit 1 to the declaration.

18 **Grounds for Objection 20(a):**

19 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
20 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
21 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
22 attachment proceedings). Declarant has failed to failed to establish a proper
23 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

24 **Objection Number 21**

25 Paragraph 26 in its entirety.

26 **Grounds for Objection 21:**

27 Hearsay. The statements regarding the contents of emails from Bennion and
28 Deville are inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v.*

1 *CHF Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements
2 in declaration not admissible for purposes of attachment proceedings).

3 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
4 content of documents. FRE 1002, 1007.

5 Improper Inference: Any inference the declarant seeks to draw from the
6 assertion of the attorney-client privilege is improper. *See Nabisco, Inc. v. PF*
7 *Brands, Inc.*, 191 F.3d 208, 226 (2nd Cir. 1999) (abrogated on other grounds in
8 *Moseley v. V Secret Catalogue, Inc.*, 537 U.S. 418 (2003)).

9 **Objection Number 21(a)**

10 Paragraph 26, the portion that reads “Incredibly, Drayna, Wood, and everyone
11 else at WSC again ignored my request any WSC still failed to take any action
12 against Windermere Watch.”

13 **Grounds for Objection 21(a):**

14 Lacks Foundation. The statements identified lack proper foundation as there
15 is no admissible evidence sufficient to support a finding that the declarant has
16 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
17 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
18 with personal knowledge; declarations not based on personal knowledge are
19 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
20 “disregard a self-serving declaration for purposes of summary judgment” when the
21 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
22 no indication how [the declarant] knows [these facts] to be true.” [Quotations
23 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
24 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
25 personal knowledge).

26 Hearsay. To the extent the statements therein are based on statements from
27 persons other than the declarant, the statements are inadmissible hearsay. FRE 801,
28 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098

1 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
2 attachment proceedings).

3 **Objection Number 21(b)**

4 Exhibit 2 to the declaration.

5 **Grounds for Objection 21(b):**

6 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
7 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
8 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
9 attachment proceedings). Declarant has failed to failed to establish a proper
10 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

11 **Objection Number 22**

12 Paragraph 27 in its entirety.

13 **Grounds for Objection 22:**

14 Lacks Foundation. The statements identified lack proper foundation as there
15 is no admissible evidence sufficient to support a finding that the declarant has
16 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
17 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
18 with personal knowledge; declarations not based on personal knowledge are
19 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
20 “disregard a self-serving declaration for purposes of summary judgment” when the
21 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
22 no indication how [the declarant] knows [these facts] to be true.” [Quotations
23 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
24 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
25 personal knowledge).

26 Hearsay. To the extent the statements therein are based on statements from
27 persons other than the declarant, the statements are inadmissible hearsay. FRE 801,
28 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098

1 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
2 attachment proceedings).

3 **Objection Number 23**

4 Paragraph 28 in its entirety.

5 **Grounds for Objection 23:**

6 Hearsay. The statements regarding the contents of emails from Bennion and
7 Deville are inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v.*
8 *CHF Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements
9 in declaration not admissible for purposes of attachment proceedings).

10 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
11 content of documents. FRE 1002, 1007.

12 **Objection Number 23(a)**

13 Exhibit 3 to the declaration.

14 **Grounds for Objection 23(a):**

15 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
16 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
17 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
18 attachment proceedings). Declarant has failed to failed to establish a proper
19 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

20 **Objection Number 24**

21 Paragraph 29 in its entirety.

22 **Grounds for Objection 24:**

23 Hearsay. The statements regarding the contents of emails from Bennion are
24 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
25 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
26 declaration not admissible for purposes of attachment proceedings).

27 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
28 content of documents. FRE 1002, 1007.

1 **Objection Number 26**

2 Paragraph 30, the portion that reads “For instance, in the July 8, 2013 email,
3 Deville again wrote to Drayna and Wood, ‘are we anywhere near developing a plan
4 [to] address the [Windermere Watch] issue?’ ”

5 **Grounds for Objection 26:**

6 Hearsay. The statements regarding the contents of emails from Deville are
7 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
8 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
9 declaration not admissible for purposes of attachment proceedings).

10 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
11 content of documents. FRE 1002, 1007.

12 **Objection Number 27**

13 Paragraph 30, the portion that reads “Amazingly, WSC continued to ignore
14 our pleas for support.”

15 **Grounds for Objection 27:**

16 Improper Argument/Conclusions. The statements identified are improper
17 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
18 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
19 plaintiff's self-serving declaration if it states conclusions rather than admissible
20 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
21 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
22 insufficient to defeat summary judgment”).

23 Lacks Foundation. The statements identified lack proper foundation as there
24 is no admissible evidence sufficient to support a finding that the declarant has
25 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
26 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
27 with personal knowledge; declarations not based on personal knowledge are
28 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may

1 “disregard a self-serving declaration for purposes of summary judgment” when the
2 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
3 no indication how [the declarant] knows [these facts] to be true.” [Quotations
4 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
5 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
6 personal knowledge).

7 **Objection Number 27(a)**

8 Exhibit 4 to the declaration.

9 **Grounds for Objection 27(a):**

10 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
11 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
12 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
13 attachment proceedings). Declarant has failed to failed to establish a proper
14 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

15 **Objection Number 28**

16 Paragraph 31 in its entirety.

17 **Grounds for Objection 28:**

18 Improper Argument/Conclusions. The statements identified are improper
19 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
20 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
21 plaintiff's self-serving declaration if it states conclusions rather than admissible
22 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
23 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
24 insufficient to defeat summary judgment”).

25 **Objection Number 29**

26 Paragraph 32 in its entirety.

27 ///

28 ///

1 **Grounds for Objection 29:**

2 Hearsay. The statements regarding the contents of emails from Deville are
3 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
4 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
5 declaration not admissible for purposes of attachment proceedings).

6 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
7 content of documents. FRE 1002, 1007.

8 **Objection Number 29(a)**

9 Exhibit 5 to the declaration.

10 **Grounds for Objection 29(a):**

11 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
12 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
13 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
14 attachment proceedings). Declarant has failed to failed to establish a proper
15 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

16 **Objection Number 30**

17 Paragraph 33 in its entirety.

18 **Grounds for Objection 30:**

19 Hearsay. The statements regarding the contents of emails from Deville are
20 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
21 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
22 declaration not admissible for purposes of attachment proceedings).

23 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
24 content of documents. FRE 1002, 1007.

25 **Objection Number 30(a)**

26 Exhibit 6 to the declaration.

27 ///

28 ///

1 **Grounds for Objection 30(a):**

2 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
3 802. See also *VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
4 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
5 attachment proceedings). Declarant has failed to failed to establish a proper
6 foundation for admission of this exhibit as a business record. See FRE 803(6).

7 **Objection Number 31**

8 Paragraph 34 in its entirety.

9 **Grounds for Objection 31:**

10 Hearsay. The statements regarding the contents of emails from Deville are
11 inadmissible hearsay. FRE 801, 802. See also *VFS Financing, Inc. v. CHF*
12 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
13 declaration not admissible for purposes of attachment proceedings).

14 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
15 content of documents. FRE 1002, 1007.

16 **Objection Number 32**

17 Paragraph 35, the portion that reads “Mr. Drayna testified that they received
18 my email but refused to explain why no response was forthcoming on the basis of
19 the attorney/client privilege.”

20 **Grounds for Objection 32:**

21 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
22 content of documents. FRE 1002, 1007.

23 **Objection Number 33**

24 Paragraph 36 in its entirety.

25 ///

26 ///

27 ///

28 ///

1 **Grounds for Objection 33:**

2 Hearsay. The statements regarding the contents of emails from Deville are
3 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
4 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
5 declaration not admissible for purposes of attachment proceedings).

6 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
7 content of documents. FRE 1002, 1007.

8 **Objection Number 34**

9 Paragraph 37 in its entirety.

10 **Grounds for Objection 34:**

11 Improper Inference: Any inference the declarant seeks to draw from the
12 assertion of the attorney-client privilege is improper. *See Nabisco, Inc. v. PF*
13 *Brands, Inc.*, 191 F.3d 208, 226 (2nd Cir. 1999) (abrogated on other grounds in
14 *Moseley v. V Secret Catalogue, Inc.*, 537 U.S. 418 (2003).

15 **Objection Number 35**

16 Paragraph 39 in its entirety.

17 **Grounds for Objection 35:**

18 Hearsay. The statements regarding the contents of emails from Deville are
19 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
20 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
21 declaration not admissible for purposes of attachment proceedings).

22 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
23 content of documents. FRE 1002, 1007.

24 **Objection Number 35(a)**

25 Exhibit 7 to the declaration.

26 **Grounds for Objection 35(a):**

27 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
28 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098

1 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
2 attachment proceedings). Declarant has failed to failed to establish a proper
3 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

4 **Objection Number 36**

5 Paragraph 40, the portion that reads “addressing the Windermere Watch
6 situation in Southern California and making clear that the Southern California
7 businesses sought a ‘definite response in terms of what is being done’ about
8 Windermere Watch.”

9 **Grounds for Objection 36:**

10 Hearsay. The statements regarding the contents of emails from Deville are
11 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
12 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
13 declaration not admissible for purposes of attachment proceedings).

14 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
15 content of documents. FRE 1002, 1007.

16 **Objection Number 36(a)**

17 Exhibit 8 to the declaration.

18 **Grounds for Objection 36(a):**

19 Improper Authentication. The exhibit referenced herein and attached to the
20 declaration is not properly authenticated. FRE 602, 901. *See also Orr v. Bank of*
21 *America, NT & SA*, 285 F.3d 764, 778 (9th Cir. 2002) (documents or evidence
22 referred to in a declaration must be properly authenticated – their attachment to a
23 declaration does not make them admissible evidence). As a result, this exhibit
24 cannot be considered in opposition to WSC’s applications. *VFS Financing, Inc. v.*
25 *CHF Express, LLC*, 620 F.Supp.2d 1092, 1097 (C.D. Cal. 2009) (exhibits in
26 attachment proceedings must be properly identified and authenticated).

27 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
28 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098

1 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
2 attachment proceedings). Declarant has failed to failed to establish a proper
3 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

4 **Objection Number 37**

5 Paragraph 42 in its entirety.

6 **Grounds for Objection 37:**

7 **Improper Argument/Conclusions.** The statements identified are improper
8 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
9 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
10 plaintiff's self-serving declaration if it states conclusions rather than admissible
11 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
12 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
13 insufficient to defeat summary judgment”).

14 **Lacks Foundation.** The statements identified lack proper foundation as there
15 is no admissible evidence sufficient to support a finding that the declarant has
16 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
17 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
18 with personal knowledge; declarations not based on personal knowledge are
19 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
20 “disregard a self-serving declaration for purposes of summary judgment” when the
21 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
22 no indication how [the declarant] knows [these facts] to be true.” [Quotations
23 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
24 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
25 personal knowledge).

26 **Objection Number 38**

27 Paragraph 44, the portion that reads “WSC’s failure to act forced us to incur
28 significant time and expense employing our own counter-marketing campaign.”

1 **Grounds for Objection 38:**

2 Improper Argument/Conclusions. The statements identified are improper
3 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
4 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
5 plaintiff's self-serving declaration if it states conclusions rather than admissible
6 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
7 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
8 insufficient to defeat summary judgment”).

9 **Objection Number 39**

10 Paragraph 44, the portion that reads “By the end of 2013, virtually all of
11 Windermere’s competitors had incorporated information from Windermere Watch
12 into their sales pitches to both agents and clients. Moreover, the continued mailings
13 of Mr. Kruger coupled with the continued existence of Windermere Watch were not
14 permanent impediments into the operations of all Windermere business in Southern
15 California.”

16 **Grounds for Objection 39:**

17 Lacks Foundation. The statements identified lack proper foundation as there
18 is no admissible evidence sufficient to support a finding that the declarant has
19 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
20 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
21 with personal knowledge; declarations not based on personal knowledge are
22 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
23 “disregard a self-serving declaration for purposes of summary judgment” when the
24 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
25 no indication how [the declarant] knows [these facts] to be true.” [Quotations
26 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
27 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
28 personal knowledge).

1 Hearsay. The statements regarding the contents of any presentations are
2 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
3 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
4 declaration not admissible for purposes of attachment proceedings).

5 **Objection Number 40**

6 Paragraph 45, the portion that reads “WSC’s failure to take action breached
7 both of the parties’ franchise agreements as amended by the Modification
8 Agreement and left the B&D Parties with no choice but to absorb a significant
9 expense in combatting Windermere Watch on their own.”

10 **Grounds for Objection 40:**

11 Improper Argument/Conclusions. The statements identified are improper
12 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
13 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
14 plaintiff’s self-serving declaration if it states conclusions rather than admissible
15 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
16 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
17 insufficient to defeat summary judgment”).

18 Lacks Foundation. The statements identified lack proper foundation as there
19 is no admissible evidence sufficient to support a finding that the declarant has
20 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
21 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
22 with personal knowledge; declarations not based on personal knowledge are
23 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
24 “disregard a self-serving declaration for purposes of summary judgment” when the
25 declaration states “facts beyond the declarant’s personal knowledge and “provide[s]
26 no indication how [the declarant] knows [these facts] to be true.” [Quotations
27 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200

28 ///

1 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
2 personal knowledge).

3 **Objection Number 41**

4 Paragraph 45, the portion that reads “However, the reimbursed amount does
5 not reflect all of our expenses arising out of WSC’s breach. These unreimbursed
6 expenses that we are pursuing in this lawsuit total \$146,954.”

7 **Grounds for Objection 41:**

8 Lacks Foundation. The statements identified lack proper foundation as there
9 is no admissible evidence sufficient to support a finding that the declarant has
10 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
11 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
12 with personal knowledge; declarations not based on personal knowledge are
13 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
14 “disregard a self-serving declaration for purposes of summary judgment” when the
15 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
16 no indication how [the declarant] knows [these facts] to be true.” [Quotations
17 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
18 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
19 personal knowledge).

20 **Objection Number 42**

21 Paragraph 46 in its entirety.

22 **Grounds for Objection 42:**

23 Improper Argument/Conclusions. The statements identified are improper
24 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
25 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
26 plaintiff's self-serving declaration if it states conclusions rather than admissible
27 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502

28 ///

1 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
2 insufficient to defeat summary judgment”).

3 Lacks Foundation. The statements identified lack proper foundation as there
4 is no admissible evidence sufficient to support a finding that the declarant has
5 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
6 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
7 with personal knowledge; declarations not based on personal knowledge are
8 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
9 “disregard a self-serving declaration for purposes of summary judgment” when the
10 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
11 no indication how [the declarant] knows [these facts] to be true.” [Quotations
12 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
13 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
14 personal knowledge).

15 Objection Number 43

16 Paragraph 47 in its entirety.

17 **Grounds for Objection 43:**

18 Improper Argument/Conclusions. The statements identified are improper
19 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
20 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
21 plaintiff's self-serving declaration if it states conclusions rather than admissible
22 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
23 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
24 insufficient to defeat summary judgment”).

25 Lacks Foundation. The statements identified lack proper foundation as there
26 is no admissible evidence sufficient to support a finding that the declarant has
27 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
28 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made

1 with personal knowledge; declarations not based on personal knowledge are
2 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
3 “disregard a self-serving declaration for purposes of summary judgment” when the
4 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
5 no indication how [the declarant] knows [these facts] to be true.” [Quotations
6 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
7 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
8 personal knowledge).

9 **Objection Number 44**

10 Paragraph 48 in its entirety.

11 **Grounds for Objection 44:**

12 Improper Argument/Conclusions. The statements identified are improper
13 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
14 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
15 plaintiff's self-serving declaration if it states conclusions rather than admissible
16 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
17 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
18 insufficient to defeat summary judgment”).

19 **Objection Number 45**

20 Paragraph 49 in its entirety.

21 **Grounds for Objection 45:**

22 Hearsay. The statements regarding Deville’s deposition testimony are
23 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
24 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
25 declaration not admissible for purposes of attachment proceedings).

26 **Objection Number 46**

27 Paragraph 49, the portion that reads “No such agreement exists and I will not
28 agree to be bound by a unilateral letter.”

1 **Grounds for Objection 46:**

2 Improper Argument/Conclusions. The statements identified are improper
3 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
4 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
5 plaintiff's self-serving declaration if it states conclusions rather than admissible
6 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
7 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
8 insufficient to defeat summary judgment”).

9 **Objection Number 47**

10 Paragraph 50 in its entirety.

11 **Grounds for Objection 47:**

12 Improper Argument/Conclusions. The statements identified are improper
13 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
14 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
15 plaintiff's self-serving declaration if it states conclusions rather than admissible
16 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
17 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
18 insufficient to defeat summary judgment”).

19 **Objection Number 48**

20 Paragraph 51 in its entirety.

21 **Grounds for Objection 48:**

22 Improper Argument/Conclusions. The statements identified are improper
23 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
24 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
25 plaintiff's self-serving declaration if it states conclusions rather than admissible
26 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
27 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
28 insufficient to defeat summary judgment”).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Objection Number 49

Exhibit 9 to the declaration.

Grounds for Objection 49:

Improper Authentication. The exhibit referenced herein and attached to the declaration is not properly authenticated. FRE 602, 901. *See also Orr v. Bank of America, NT & SA*, 285 F.3d 764, 778 (9th Cir. 2002) (documents or evidence referred to in a declaration must be properly authenticated – their attachment to a declaration does not make them admissible evidence). As a result, this exhibit cannot be considered in opposition to WSC’s applications. *VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1097 (C.D. Cal. 2009) (exhibits in attachment proceedings must be properly identified and authenticated).

Objection Number 50

Paragraph 53 in its entirety.

Grounds for Objection 50:

Secondary/Best Evidence Rule. This is inadmissible testimony regarding the content of documents. FRE 1002, 1007.

Objection Number 51

Paragraph 54 in its entirety.

Grounds for Objection 51:

Secondary/Best Evidence Rule. This is inadmissible testimony regarding the content of documents. FRE 1002, 1007.

Objection Number 52

Paragraph 55 in its entirety.

Grounds for Objection 52:

Secondary/Best Evidence Rule. This is inadmissible testimony regarding the content of documents. FRE 1002, 1007.

///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Objection Number 53

Paragraph 56, the reference at page 16, line 15 to “competent,” and the portion that reads “and it as not in a position to support the Southern California franchise operations.”

Grounds for Objection 53:

Improper Argument/Conclusions. The statements identified are improper arguments and self-serving conclusions that are not admissible evidence. *Nigro v. Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard plaintiff's self-serving declaration if it states conclusions rather than admissible evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are insufficient to defeat summary judgment”).

Objection Number 54

Paragraph 57, the portion at page 16, line 22 that reads “to provide the service and support that WSC could not.” And the portion that reads “Our status as both the Area Representative and franchisees created a symbiotic relationship between the Area Representation Agreement and the franchise agreements.”

Grounds for Objection 54:

Improper Argument/Conclusions. The statements identified are improper arguments and self-serving conclusions that are not admissible evidence. *Nigro v. Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard plaintiff's self-serving declaration if it states conclusions rather than admissible evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are insufficient to defeat summary judgment”).

Objection Number 55

Paragraph 60 in its entirety.

///

1 **Grounds for Objection 55:**

2 Improper Argument/Conclusions. The statements identified are improper
3 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
4 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
5 plaintiff's self-serving declaration if it states conclusions rather than admissible
6 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
7 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
8 insufficient to defeat summary judgment”).

9 Lacks Foundation. The statements identified lack proper foundation as there
10 is no admissible evidence sufficient to support a finding that the declarant has
11 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
12 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
13 with personal knowledge; declarations not based on personal knowledge are
14 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
15 “disregard a self-serving declaration for purposes of summary judgment” when the
16 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
17 no indication how [the declarant] knows [these facts] to be true.” [Quotations
18 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
19 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
20 personal knowledge).

21 **Objection Number 56**

22 Paragraph 61, the portion that reads “and it was implied by the symbiotic
23 relationship of the agreements and the express terms of the Area Representation
24 Agreement that we would receive a 50% reduction off our franchise fees.”

25 **Grounds for Objection 56:**

26 Improper Argument/Conclusions. The statements identified are improper
27 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
28 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard

1 plaintiff's self-serving declaration if it states conclusions rather than admissible
2 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
3 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
4 insufficient to defeat summary judgment”).

5 **Objection Number 57**

6 Paragraph 62 in its entirety.

7 **Grounds for Objection 57:**

8 Lacks Foundation. The statements identified lack proper foundation as there
9 is no admissible evidence sufficient to support a finding that the declarant has
10 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
11 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
12 with personal knowledge; declarations not based on personal knowledge are
13 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
14 “disregard a self-serving declaration for purposes of summary judgment” when the
15 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
16 no indication how [the declarant] knows [these facts] to be true.” [Quotations
17 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
18 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
19 personal knowledge).

20 **Objection Number 58**

21 Paragraph 63 in its entirety.

22 **Grounds for Objection 58:**

23 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
24 content of documents. FRE 1002, 1007.

25 **Objection Number 59**

26 Paragraph 64 in its entirety.

27 ///

28 ///

1 **Grounds for Objection 59:**

2 Lacks Foundation. The statements identified lack proper foundation as there
3 is no admissible evidence sufficient to support a finding that the declarant has
4 personal knowledge of the matters stated. FRE 602. See also *Hexcel Corp. v. Ineos*
5 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
6 with personal knowledge; declarations not based on personal knowledge are
7 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
8 “disregard a self-serving declaration for purposes of summary judgment” when the
9 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
10 no indication how [the declarant] knows [these facts] to be true.” [Quotations
11 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
12 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
13 personal knowledge).

14 **Objection Number 60**

15 Paragraph 64, the portion that reads “WSC’s failure to register the franchise
16 application precluded us from being able to offer or sell any Windermere franchises
17 under California’s franchise laws. More importantly, this right was never restored
18 to us for the short duration of our time with WSC.”

19 **Grounds for Objection 60:**

20 Improper Argument/Conclusions. The statements identified are improper
21 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
22 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
23 plaintiff's self-serving declaration if it states conclusions rather than admissible
24 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
25 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
26 insufficient to defeat summary judgment”).

27 **Objection Number 61**

28 Paragraph 65 in its entirety.

1 **Grounds for Objection 61:**

2 Improper Argument/Conclusions. The statements identified are improper
3 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
4 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
5 plaintiff's self-serving declaration if it states conclusions rather than admissible
6 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
7 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
8 insufficient to defeat summary judgment”).

9 **Objection Number 62**

10 Paragraph 66 in its entirety.

11 **Grounds for Objection 62:**

12 Hearsay. The statements regarding the contents of emails from Deville are
13 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
14 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
15 declaration not admissible for purposes of attachment proceedings).

16 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
17 content of documents. FRE 1002, 1007.

18 **Objection Number 63**

19 Exhibit 10 to the declaration.

20 **Grounds for Objection 63:**

21 Hearsay. The statements in this exhibit are inadmissible hearsay. FRE 801,
22 802. *See also VFS Financing, Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098
23 (C.D. Cal. 2009) (hearsay statements in declaration not admissible for purposes of
24 attachment proceedings). Declarant has failed to failed to establish a proper
25 foundation for admission of this exhibit as a business record. *See* FRE 803(6).

26 **Objection Number 64**

27 Paragraph 67, the portion that states “The next day, Mr. Teather responded to
28 my email as follows: ‘I spoke with [Mr. Drayna] today regarding the [Southern

1 California franchise application], I will make sure that it is out to you by the end of
2 the week.’ ”

3 **Grounds for Objection 64:**

4 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
5 content of documents. FRE 1002, 1007.

6 **Objection Number 65**

7 Paragraph 67, the portion that reads “Notwithstanding Mr. Teather’s
8 representation, the Southern California franchise application was never registered
9 with the State of California for 2014.”

10 **Grounds for Objection 65:**

11 Lacks Foundation. The statements identified lack proper foundation as there
12 is no admissible evidence sufficient to support a finding that the declarant has
13 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
14 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
15 with personal knowledge; declarations not based on personal knowledge are
16 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
17 “disregard a self-serving declaration for purposes of summary judgment” when the
18 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
19 no indication how [the declarant] knows [these facts] to be true.” [Quotations
20 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
21 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
22 personal knowledge).

23 **Objection Number 66**

24 Paragraph 68, the portion that reads “I was at Mr. Drayna’s deposition when
25 he admitted that he did not register the Southern California franchise application
26 because he understood that WSC was in the process of reacquiring the Area
27 Representative rights.”

28 ///

1 **Grounds for Objection 66:**

2 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
3 content of Mr. Drayna’s deposition. FRE 1002, 1007.

4 **Objection Number 67**

5 Paragraph 68, the portion that reads “we were pleading with WSC to register
6 [sic] Southern California franchise application so we could offer and sell franchises
7 as permitted by the Area Representation Agreement.”

8 **Grounds for Objection 67:**

9 Improper Argument/Conclusions. The statements identified are improper
10 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
11 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
12 plaintiff’s self-serving declaration if it states conclusions rather than admissible
13 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
14 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
15 insufficient to defeat summary judgment”).

16 **Objection Number 68**

17 Paragraph 69 in its entirety.

18 **Grounds for Objection 68:**

19 Improper Argument/Conclusions. The statements identified are improper
20 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
21 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
22 plaintiff’s self-serving declaration if it states conclusions rather than admissible
23 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
24 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
25 insufficient to defeat summary judgment”).

26 Lacks Foundation. The statements identified lack proper foundation as there
27 is no admissible evidence sufficient to support a finding that the declarant has
28 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*

1 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
2 with personal knowledge; declarations not based on personal knowledge are
3 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
4 “disregard a self-serving declaration for purposes of summary judgment” when the
5 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
6 no indication how [the declarant] knows [these facts] to be true.” [Quotations
7 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
8 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
9 personal knowledge).

10 **Objection Number 69**

11 Paragraph 70 in its entirety.

12 **Grounds for Objection 69:**

13 Improper Argument/Conclusions. The statements identified are improper
14 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
15 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
16 plaintiff's self-serving declaration if it states conclusions rather than admissible
17 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
18 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
19 insufficient to defeat summary judgment”).

20 Lacks Foundation. The statements identified lack proper foundation as there
21 is no admissible evidence sufficient to support a finding that the declarant has
22 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
23 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
24 with personal knowledge; declarations not based on personal knowledge are
25 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
26 “disregard a self-serving declaration for purposes of summary judgment” when the
27 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
28 no indication how [the declarant] knows [these facts] to be true.” [Quotations

1 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
2 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
3 personal knowledge).

4 **Objection Number 70**

5 Paragraph 71 in its entirety.

6 **Grounds for Objection 70:**

7 Improper Argument/Conclusions. The statements identified are improper
8 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
9 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
10 plaintiff's self-serving declaration if it states conclusions rather than admissible
11 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
12 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
13 insufficient to defeat summary judgment”).

14 Lacks Foundation. The statements identified lack proper foundation as there
15 is no admissible evidence sufficient to support a finding that the declarant has
16 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
17 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
18 with personal knowledge; declarations not based on personal knowledge are
19 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
20 “disregard a self-serving declaration for purposes of summary judgment” when the
21 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
22 no indication how [the declarant] knows [these facts] to be true.” [Quotations
23 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
24 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
25 personal knowledge).

26 **Objection Number 71**

27 Paragraph 72 in its entirety.

28 ///

1 **Grounds for Objection 71:**

2 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
3 content of documents. FRE 1002, 1007.

4 **Objection Number 72**

5 Paragraph 73 in its entirety.

6 **Grounds for Objection 72:**

7 Hearsay. The statements regarding statements made by third parties are
8 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
9 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
10 declaration not admissible for purposes of attachment proceedings).

11 **Objection Number 73**

12 Paragraph 74 in its entirety.

13 **Grounds for Objection 73:**

14 Lacks Foundation. The statements identified lack proper foundation as there
15 is no admissible evidence sufficient to support a finding that the declarant has
16 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
17 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
18 with personal knowledge; declarations not based on personal knowledge are
19 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
20 “disregard a self-serving declaration for purposes of summary judgment” when the
21 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
22 no indication how [the declarant] knows [these facts] to be true.” [Quotations
23 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
24 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
25 personal knowledge).

26 Hearsay. To the extent these statements are based on the statements of third
27 parties, they are inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc.*

28 ///

1 v. *CHF Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay
2 statements in declaration not admissible for purposes of attachment proceedings).

3 **Objection Number 74**

4 Paragraph 75 in its entirety.

5 **Grounds for Objection 74:**

6 **Lacks Foundation.** The statements identified lack proper foundation as there
7 is no admissible evidence sufficient to support a finding that the declarant has
8 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
9 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
10 with personal knowledge; declarations not based on personal knowledge are
11 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
12 “disregard a self-serving declaration for purposes of summary judgment” when the
13 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
14 no indication how [the declarant] knows [these facts] to be true.” [Quotations
15 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
16 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
17 personal knowledge).

18 **Hearsay.** To the extent these statements are based on the statements of third
19 parties, they are inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc.*
20 *v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay
21 statements in declaration not admissible for purposes of attachment proceedings).

22 **Objection Number 75**

23 Paragraph 76 in its entirety.

24 **Grounds for Objection 75:**

25 **Improper Argument/Conclusions.** The statements identified are improper
26 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
27 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
28 plaintiff's self-serving declaration if it states conclusions rather than admissible

1 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
2 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
3 insufficient to defeat summary judgment”).

4 Lacks Foundation. The statements identified lack proper foundation as there
5 is no admissible evidence sufficient to support a finding that the declarant has
6 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
7 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
8 with personal knowledge; declarations not based on personal knowledge are
9 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
10 “disregard a self-serving declaration for purposes of summary judgment” when the
11 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
12 no indication how [the declarant] knows [these facts] to be true.” [Quotations
13 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
14 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
15 personal knowledge).

16 Hearsay. To the extent these statements are based on hearsay documents, the
17 statements are also inadmissible hearsay. FRE 801, 802. *See also VFS Financing,*
18 *Inc. v. CHF Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay
19 statements in declaration not admissible for purposes of attachment proceedings).

20 **Objection Number 76**

21 Paragraph 77, the portion that reads “As reflected in the concurrently
22 submitted report of our damages expert, Peter Wrobel, we now seek damages for the
23 fair market value of our Area Representative rights in the amount of \$2,592,526.”

24 **Grounds for Objection 76:**

25 Hearsay. The statements regarding the contents of the expert report are
26 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
27 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
28 declaration not admissible for purposes of attachment proceedings).

1 In addition, the expert report is also inadmissible hearsay. *See Fowle v. C &*
2 *C Cola*, 868 F.2d 59, 67 (3d Cir.1989) (expert’s report attached to the declaration of
3 plaintiff’s counsel not admissible since “[t]he substance of th[e] report was not
4 sworn to by the alleged expert”). *See also Carson Harbor Village, Ltd. V. Unocal*
5 *Corp.*, 2003 WL 22038700, *7 (C.D. Cal. 2003) (“Because neither a declaration nor
6 the deposition testimony of [expert] has been submitted stating that the conclusions
7 in the report are true and correct, defendants’ objection is sustained.”).

8 **Objection Number 77**

9 Paragraph 77, the portion that reads “At a minimum, this amount would offset
10 the amount WSC seeks in this action.”

11 **Grounds for Objection 77:**

12 **Improper Argument/Conclusions.** The statements identified are improper
13 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
14 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
15 plaintiff’s self-serving declaration if it states conclusions rather than admissible
16 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
17 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
18 insufficient to defeat summary judgment”).

19 **Lacks Foundation.** The statements identified lack proper foundation as there
20 is no admissible evidence sufficient to support a finding that the declarant has
21 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
22 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
23 with personal knowledge; declarations not based on personal knowledge are
24 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
25 “disregard a self-serving declaration for purposes of summary judgment” when the
26 declaration states “facts beyond the declarant’s personal knowledge and “provide[s]
27 no indication how [the declarant] knows [these facts] to be true.” [Quotations
28 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200

1 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
2 personal knowledge).

3 **Objection Number 78**

4 Paragraph 78, the portion that reads “that were implied benefits under the
5 Coachella Valley Franchise Agreement and SoCal Franchise Agreement.”

6 **Grounds for Objection 78:**

7 Improper Argument/Conclusions. The statements identified are improper
8 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
9 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
10 plaintiff's self-serving declaration if it states conclusions rather than admissible
11 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
12 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
13 insufficient to defeat summary judgment”).

14 Lacks Foundation. The statements identified lack proper foundation as there
15 is no admissible evidence sufficient to support a finding that the declarant has
16 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
17 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
18 with personal knowledge; declarations not based on personal knowledge are
19 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
20 “disregard a self-serving declaration for purposes of summary judgment” when the
21 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
22 no indication how [the declarant] knows [these facts] to be true.” [Quotations
23 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
24 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
25 personal knowledge).

26 **Objection Number 79**

27 Paragraph 79 in its entirety.

28 ///

1 **Grounds for Objection 79:**

2 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
3 content of documents. FRE 1002, 1007.

4 **Objection Number 80**

5 Exhibit 12 to the declaration.

6 **Grounds for Objection 80:**

7 Improper Authentication. The exhibit referenced herein and attached to the
8 declaration is not properly authenticated. FRE 602, 901. *See also Orr v. Bank of*
9 *America, NT & SA*, 285 F.3d 764, 778 (9th Cir. 2002) (documents or evidence
10 referred to in a declaration must be properly authenticated – their attachment to a
11 declaration does not make them admissible evidence). As a result, this exhibit
12 cannot be considered in opposition to WSC’s applications. *VFS Financing, Inc. v.*
13 *CHF Express, LLC*, 620 F.Supp.2d 1092, 1097 (C.D. Cal. 2009) (exhibits in
14 attachment proceedings must be properly identified and authenticated).

15 **Objection Number 81**

16 Paragraph 80 in its entirety.

17 **Grounds for Objection 81:**

18 Improper Argument/Conclusions. The statements identified are improper
19 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
20 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
21 plaintiff’s self-serving declaration if it states conclusions rather than admissible
22 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
23 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
24 insufficient to defeat summary judgment”).

25 Lacks Foundation. The statements identified lack proper foundation as there
26 is no admissible evidence sufficient to support a finding that the declarant has
27 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
28 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made

1 with personal knowledge; declarations not based on personal knowledge are
2 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
3 “disregard a self-serving declaration for purposes of summary judgment” when the
4 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
5 no indication how [the declarant] knows [these facts] to be true.” [Quotations
6 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200
7 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
8 personal knowledge).

9 **Objection Number 82**

10 Paragraph 81 in its entirety.

11 **Grounds for Objection 82:**

12 **Improper Argument/Conclusions.** The statements identified are improper
13 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
14 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
15 plaintiff's self-serving declaration if it states conclusions rather than admissible
16 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
17 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
18 insufficient to defeat summary judgment”).

19 **Lacks Foundation.** The statements identified lack proper foundation as there
20 is no admissible evidence sufficient to support a finding that the declarant has
21 personal knowledge of the matters stated. FRE 602. *See also Hexcel Corp. v. Ineos*
22 *Polymers, Inc.*, 681 F.3d 1055, 1063 (9th Cir. 2012) (declarations “must be made
23 with personal knowledge; declarations not based on personal knowledge are
24 inadmissible”); *SEC v. Phan*, 500 F.3d 895, 910 (9th Cir. 2007) (a court may
25 “disregard a self-serving declaration for purposes of summary judgment” when the
26 declaration states “facts beyond the declarant's personal knowledge and “provide[s]
27 no indication how [the declarant] knows [these facts] to be true.” [Quotations
28 omitted]); *Argo v. Blue Cross & Blue Shield of Kansas, Inc.*, 452 F.3d 1193, 1200

1 (10th Cir. 2006) (striking portion of affidavit as to which affiant clearly had no
2 personal knowledge).

3 **Objection Number 83**

4 Paragraph 82 in its entirety.

5 **Grounds for Objection 83:**

6 Hearsay. The statements regarding statements made by third parties are
7 inadmissible hearsay. FRE 801, 802. *See also VFS Financing, Inc. v. CHF*
8 *Express, LLC*, 620 F.Supp.2d 1092, 1098 (C.D. Cal. 2009) (hearsay statements in
9 declaration not admissible for purposes of attachment proceedings).

10 **Objection Number 84**

11 Paragraph 83 in its entirety.

12 **Grounds for Objection 84:**

13 Secondary/Best Evidence Rule. This is inadmissible testimony regarding the
14 content of the referenced depositions. FRE 1002, 1007.

15 **Objection Number 85**

16 Paragraph 84 in its entirety.

17 **Grounds for Objection 85:**

18 Improper Argument/Conclusions. The statements identified are improper
19 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
20 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
21 plaintiff's self-serving declaration if it states conclusions rather than admissible
22 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
23 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
24 insufficient to defeat summary judgment”).

25 **Objection Number 85**

26 Paragraph 85, the portion that reads “While we have not been able to quantify
27 the harm that we suffered as a result of WSC’s sales to our direct competitors of the
28 same technology that was supposed to set us apart from the competition.”

1 **Grounds for Objection 85:**

2 Improper Argument/Conclusions. The statements identified are improper
3 arguments and self-serving conclusions that are not admissible evidence. *Nigro v.*
4 *Sears, Roebuck & Co.*, 784 F.3d 495, 497-498 (9th Cir. 2015) (court may disregard
5 plaintiff's self-serving declaration if it states conclusions rather than admissible
6 evidence); *National Steel Corp. v. Golden Eagle Ins. Co.*, 121 F.3d 496, 502
7 (9th Cir. 1997) (“Conclusory allegations of collusion, without factual support, are
8 insufficient to defeat summary judgment”).
9

10 DATED: May 1, 2017

PEREZ VAUGHN & FEASBY Inc.

11
12 By: /s/ Jeffrey A. Feasby

13 Jeffrey A. Feasby

14 Attorneys for

15 Windermere Real Estate Services Company
16
17
18
19
20
21
22
23
24
25
26
27
28