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6 Attorneys for Defendant and Counterclaimant
Windermere Real Estate Services Company
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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 BENNION & DEVILLE FINE
HOMES, INC., a California
11 corporation, BENNION & DEVILLE
FINE HOMES SOCAL, INC., a
12 California corporation, WINDERMERE
SERVICES SOUTHERN
13 CALIFORNIA, INC., a California
corporation,

14 Plaintiffs,

15 v.

16 WINDERMERE REAL ESTATE
17 SERVICES COMPANY, a Washington
corporation; and DOES 1-10

18 Defendant.
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20

21 **AND RELATED COUNTERCLAIMS**
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Case No. 15-cv-01921 R (KKx)

Hon. Manuel L. Real

**COUNTERCLAIMANT
WINDERMERE REAL ESTATE
SERVICES COMPANY'S NOTICE
OF MOTION AND MOTION TO
DISMISS PLAINTIFFS'
COMPLAINT**

[F.R.C.P 12(b)(6)]

Date: November 16, 2015

Time: 10:00 a.m.

Courtroom: 6

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

2 **PLEASE TAKE NOTICE** that on November 16, 2015, at 10:00 a.m., or as
3 soon thereafter as counsel may be heard, in the courtroom of the Honorable
4 Manuel L. Real, United States District Court Judge, located at Courtroom 6 of the
5 United States Courthouse, 312 North Spring Street, Los Angeles, California 90012,
6 defendant Windermere Real Estate Services Company (“WSC”), will, and hereby
7 does, move the Court for an order dismissing the following causes of action set forth
8 in plaintiffs’ Complaint:

- 9 1. First Cause of Action for Breach of Contract – Coachella Valley Franchise
10 Agreement;
- 11 2. Third Cause of Action for Breach of Contract – SoCal Franchise
12 Agreement;
- 13 3. Fourth Cause of action for Breach of Contract – Modification Agreement;
- 14 4. Fifth Cause of Action for Breach of Contract – Confidentiality Agreement;
- 15 5. Sixth Cause of Action for Breach of the Covenant of Good Faith and Fair
16 Dealing;
- 17 6. Seventh Cause of Action for Intentional Interference with Contractual
18 Relationship; and
- 19 7. Eighth Cause of Action for Intentional Interference with Prospective
20 Economic Advantage.

21 WSC’s motion is made and based Federal Rule of Civil Procedure 12(b)(6) on the
22 grounds that each of these causes of action fail to state a claim upon which relief can
23 be granted. This motion is made following the conference of counsel pursuant to
24 L.R. 7-3, which took place on October 13, 2015.

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1 WSC's motion is based upon this Notice of Motion and Motion, the
2 Memorandum of Points and Authorities in support thereof and filed concurrently
3 herewith, and all pleadings, records, and documents on file herein, and on such oral
4 and documentary evidence as may be presented at the time of hearing of motion.

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6 DATED: October 13, 2015 PEREZ WILSON VAUGHN & FEASBY

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By: /s/ John D. Vaughn
John D. Vaughn
Attorneys for
Windermere Real Estate Services Company

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