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4 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
5
6 **IN AND FOR THE COUNTY OF ISLAND**

7
8 **ROBERT WILBUR and DUSTIN**
9 **FREDERICK,**

10 **Plaintiffs,**

NO. 13-2-00741-4

11 **vs.**

**PLAINTIFF FREDERICK'S
MOTION FOR VOLUNTARY
NON-SUIT**

12 **ADMIRAL'S COVE BEACH CLUB, a**
13 **Washington non-profit corporation;**
14 **and JEAN SALLS, MARIA**
15 **CHAMBERLAIN, KAREN SHAAK,**
16 **ROBERT PEETZ, ELSA PALMER,**
17 **ED DELAHANTY AND DAN JONES,**
18 **individuals,**

19 **Defendants.**

20 **I. RELIEF REQUESTED**

21 Plaintiff, Dustin Frederick moves the Court for an order voluntarily dismissing
22 each of the Defendants from his lawsuit without prejudice and without attorney fees or
23 costs, and effectively dismissing Plaintiff Dustin Frederick's lawsuit in full (leaving
24 Plaintiff Robert Wilbur's claims against all Defendants intact).
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27 **II. STATEMENT OF FACTS**

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29 Plaintiff Robert Wilbur and Dustin Frederick, as individuals, filed the subject
30 action on September 11, 2013. The plaintiffs sought and were granted a temporary
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1 injunction and then a preliminary injunction on November 26, 2013, restraining the
2 demolition of the pool, the subject of the pending lawsuit, as contrary to Defendant
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4 Admiral's Cove Beach Club's Articles, Bylaws, and Deeds.

5 Plaintiff Dustin Frederick was subsequently elected to Defendant Admiral's
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7 Cove Beach Club's Board of Directors. Plaintiff, Dustin Frederick seeks to voluntarily
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9 dismiss his individual claims against Defendants, leaving Plaintiff Robert Wilbur's
10
11 claims intact.

12 Defendants have filed no counterclaim in this action. This case has not yet
13
14 been set for trial. There is no statutory or contract provision by which any of the
15
16 Defendants would be entitled to reimbursement of attorney fees or costs against Mr.
17
18 Frederick.

19 III. STATEMENT OF ISSUE

20 Should Plaintiff Dustin Frederick be entitled to voluntarily dismiss his claims
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22 against Defendants, without prejudice and without fees or costs to Defendants
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24 pursuant to Civil Rule 41(a)(1)(B) ?

25 III. EVIDENCE RELIED UPON

26 Plaintiff Dustin Frederick relies upon the complete Court file in this cause.

27 IV. AUTHORITY

28 Plaintiff Dustin Frederick makes this motion pursuant to CR 41(a)(1)(B), which
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30 provides for *mandatory* dismissal upon the motion of a plaintiff at any time before
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32 plaintiff rests at the conclusion of his opening case. This case has not yet been set for

1 trial. Defendants have filed no counterclaim. There is no basis upon which to assess
2 attorney fees or costs against Plaintiff Frederick.
3

4 **VI. CONCLUSION**

5 For the above reasons, Plaintiff Dustin Frederick asks the Court to dismiss his
6 claims against Defendants without prejudice and without assessing attorney fees or
7 costs, leaving Plaintiff Robert Wilbur's action intact.
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10 Dated this 5th day of March, 2014.
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13 Law Office of Christon C. Skinner, P.S.

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CHRISTON C. SKINNER/ #9515
Attorney for Plaintiffs