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5 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**

6 **IN AND FOR THE COUNTY OF ISLAND**

7
8 ROBERT WILBUR and DUSTIN
9 FREDERICK,

10 Plaintiffs,

11 vs.

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.

NO. 13-2-00741-4

**DECLARATION OF DUSTIN
FREDERICK RE:
PRESENTATION OF
TEMPORARY
INJUNCTION/ORDER**

20 **UNDER PENALTY OF PERJURY AND PURSUANT TO THE LAWS OF THE STATE OF**
21 **WASHINGTON, I CERTIFY THE FOLLOWING TO BE TRUE AND CORRECT:**

22
23 1. My name is Dustin Frederick I am over the age of 18 years and competent to
24 be a witness. The information contained in this declaration is based on my personal
25 knowledge of the facts.

26
27 2. This declaration is submitted in reply to the proposed temporary injunction
28 provided by the defendants to the court in connection with the plaintiffs' presentation of
29 a proposed temporary injunction. The plaintiffs' proposed relates to the court's oral
30 decision entered on November 27, 2013. When I am referring to "defendants," in this
31 declaration, I am specifically referring to the individual board member defendants
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OF TEMP. INJUNCTION
Page 1

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1 Salls, Chamberlain, Peetz, Shaak, and Jones. These defendants are represented by
2 Mr. Addanki.

3 3. I am a member of Admirals Cove Beach Club and I am one of the plaintiffs in
4 this case. I reviewed the defendants' proposed temporary injunction and order that
5 was delivered to my attorney today (December 27, 2013.) The changes that the
6 defendants propose do not accurately reflect the court's ruling. Additionally, the
7 defendants are attempting to avoid the obligation to confer with plaintiffs and our
8 counsel about the date of the annual meeting. Their proposed order eliminates our
9 request that no annual meeting occur prior to January 18, 2014. This is problematic for
10 several reasons.

11
12 4. Between November 27th (date of the hearing) and the board of directors'
13 meeting that took place on December 14, 2013, the five defendant board members
14 referred to above, covertly prepared the ballot for the election of new directors and
15 mailed it to the membership. They did this without consulting or disclosing their actions
16 to the other two board members, Ed Delahanty and Elsa Palmer. The five defendant
17 board members also attempted to establish the annual meeting on January 4, 2014,
18 again, without consulting any of the plaintiffs or our attorney. That meeting was
19 rescheduled to January 11, 2014, but this too is a date that does not allow sufficient
20 time for members to plan their attendance or request the right to be on the ballot as a
21 director candidate.

22
23 4. The current date that the board unilaterally set for the annual meeting
24 (January 11, 2014) is a date that they knew would be problematic for the two board
25 members who are not intent on shutting down the swimming pool, namely, Ed
26 Delahanty and Suzy Palmer. Neither Ms. Palmer nor Mr. Delahanty are able to attend
27 the January 11, 2014 meeting.

28
29 5. I was nominated to be a candidate for a board position at the next annual
30 meeting. However, the five defendant board members failed to notify me that I would
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1 be a nominee and that my name would be on the ballot despite the fact that I
2 submitted my nomination information form in August, 2013.

3 6. Based on the discussion at the November 27 hearing the five Board
4 members present at the hearing were fully aware of the courts discussion regarding
5 scheduling the annual meeting in such a way that it would not conflict with holiday
6 schedules and allow sufficient notice of the meeting to all members of Admiral's Cove
7 Beach Club. The board contacted no other persons, not the plaintiffs, the plaintiffs'
8 lawyer or even the two "pro pool" board members, before making the decision to
9 schedule the annual meeting on January 11, 2014.
10

11 7. On Saturday, December 14, 2013, I attended the December board meeting
12 and at that meeting Jean Salls announced that the annual meeting would be January
13 11, 2014. I informed Pres. Salls that January 11 would be problematic for me, for other
14 board members and other nominees since we would be unable to attend on that date.
15 Her response was that the ballots and notice had already been mailed. Again, this
16 scheduling was done without consulting any other affected party – despite the court's
17 clear direction that we work toward a mutually agreeable date.
18

19 8. The issues related to the annual meeting date, eligibility of nominees,
20 balloting procedure and proper notification to members are all issues that were raised
21 in plaintiff's original complaint. Once again the five board members; Jean Salls, Maria
22 Chamberlain, Karen Shaak, Dan Jones and Bob Peetz are continuing to frustrate the
23 rights of ACBC members and are continuing to act contrary to the intent and rulings
24 made by the Court at the November 27 hearing.
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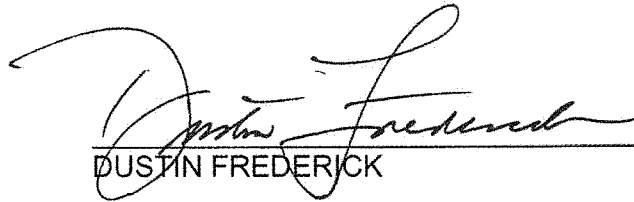
26 9. I am unavailable to attend the annual meeting if it is held on January 11th
27 because I will be in Canada on a pre-planned anniversary trip. As a Plaintiff in this
28 case, common courtesy would dictate that I would have been notified by the board that
29 I was, in fact, now a nominee for a board position and the date of the planned annual
30 membership meeting. I was notified on neither. The temporary injunction and order
31 that plaintiffs proposed should remain intact with respect to the proposal that the
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1 annual meeting not occur prior to January 18, 2014. If the board has to redo the
2 notices and send them out again then that cost should be their responsibility since
3 they neglected to confer with anyone but themselves prior to establishing the date of
4 January 11.

5 10. The five board member/defendants' proposed form of the temporary
6 injunction does not accurately reflect the court's decision. These defendants are intent
7 upon trying to narrow or limit the effect of the findings that the court made. The
8 changes to our proposed order submitted by Mr. Addanki appear to be tactical rather
9 than focused on an accurate description of the court's oral decision.

10
11 The plaintiffs' proposed order and temporary injunction should be entered as
12 presented.

13 Dated this 27th day of December, 2013.

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16
17 
18 DUSTIN FREDERICK