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7 IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
8 IN AND FOR THE COUNTY OF ISLAND

9 ROBOERT WILBUR and DUSTIN  
10 FREDERICK,

11 Plaintiffs,

12 v.

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

19 Defendants.

Case No.: 13-2-00741-4

SUSAN CORLISS' PLEADING IN  
INTERVENTION PURSUANT TO  
WASHINGTON CIVIL RULE 24

20 SUE CORLISS,

21 Intervenor,

22 v.

23 DUSTIN FREDRICK, ROBERT WILBUR,  
24 ADMIRAL'S COVE BEACH CLUB, a  
25 Washington non-profit corporation, and its  
26 BOARD OF DIRECTORS.

27 Defendants.

28  
**I. INTERVENING PARTY**

1. Susan Corliss is an owner of real property within the Admiral's Cove development on Whidbey Island. By virtue of her property ownership, she is a

1 Member of the Admiral's Cove Beach Club, the defendant in this suit. Accordingly,  
2 she has the same basis for standing in this case as does the plaintiff Mr. Wilbur.  
3 Moreover, relief sought by plaintiff in this case will have a direct financial impact,  
4 and other impacts, on Ms. Corliss. She has an interest relating to the property or  
5 transaction which is the subject of the action and she is so situated that the  
6 disposition of the action will as a practical matter impair or impede her ability to  
7 protect that interest. See Washington CR 24. Her interests are not adequately  
8 represented by the present parties.

## 9 DEFENSES IN INTERVENTION

### 10 Declaratory Judgment

- 11 1. Plaintiff has brought a claim for Declaratory Judgment. Ms. Corliss, as  
12 Intervenor, opposes and will defend against this claim.
- 13 2. Pursuant to RCW 7.24.110, a declaratory judgment cannot be entered  
14 because not all parties who have an interest which would be affected by the  
15 requested Declaration have been made parties to this suit. A Declaratory Judgment  
16 cannot bind individuals who are not parties.
- 17 3. Ms. Corliss also opposes on the grounds that Mr. Wilbur does not have an  
18 enforceable property interest in the continued operation of a swimming pool. No  
19 such interest was conveyed to him upon purchase of his property in the Cove, and  
20 no principle of property law in existence compels the continued operation of a pool  
21 or other facility, by a community organization, because a single member of that  
22 organization seeks to compel its continued operation. This is especially true where  
23 a majority of the Members of the Cove, through the democratic process defined in  
24 their managing Bylaws, have expressed their desire to close the pool.
- 25 4. The assertions presented in support of this cause of action are legal  
26 conclusions and therefore require no more specific denial.

### 27 Injunction and Damages

- 28 1. Plaintiff has sought a Temporary and Permanent Injunction, and damages,

1 associated with his claims regarding the swimming pool at the Admiral's Cove  
2 Beach Club. Ms. Corliss as Intervenor opposes and will defend these claims.

3 2. Plaintiff is not entitled to an injunction or damages because he cannot show  
4 the existence of a cognizable or enforceable property interest in the continued  
5 operation of an outdated, dilapidated swimming pool. He has no property interest  
6 by which he can compel repairs to that swimming pool, paid for by the 600 Members  
7 of the Club, who will have to pay large financial assessments to effectuate the  
8 repairs that plaintiff seeks to compel.

9 3. There is no doctrine or principal of property law by which a single property  
10 owner in a large property development can compel a community organization to  
11 maintain, for his benefit, specific facilities that existed at the moment he purchased  
12 a property lot. There is no case law supporting the claim that a property owner has  
13 an enforceable and absolute property right in the continued operation of a  
14 community pool.

15 4. Contrary to assertions made in this lawsuit, Mr. Wilbur's deed does not  
16 convey any rights to the operation of a swimming pool and makes no mention of a  
17 swimming pool.

18 5. The defendant Cove is a Member managed nonprofit organization, which has  
19 defined rules and processes for decision making. Plaintiff seeks to compel his  
20 chosen policy preference on all 600 Members, and to do so completely outside of the  
21 rules, Bylaws and Articles of Incorporation of the Club. This is inappropriate and  
22 extralegal. There is no doctrine of law that allows a single member to trump the  
23 self-regulating, democratic mechanisms duly established by a non-profit Member-  
24 managed organization. Therefore, there is no basis for an injunction and no basis  
25 for damages.

26 6. The assertions presented in support of these causes of action are legal  
27 conclusions, and therefore require no more specific denial.

## 28 DENIALS AND RESPONSES

1 Responding to specific factual allegations in the plaintiff's complaint,  
2 Internevor answers as follows:

3 3.1 Without specific information.

4 3.2 Without specific information.

5 3.3 The articles and bylaws speak for themselves.

6 3.4 Unknown what "original grant of deed" is referred to, therefore deny.

7 3.5 Admit.

8 3.6 The articles speak for themselves.

9 3.7 The Bylaws speak for themselves.

10 3.8 Deny. The primary recreational asset is the substantial waterfront property  
11 with beach access. The swimming pool is in severe disrepair, and the vast majority  
12 of Cove Members do not use the pool regularly.

13 3.9 The bylaws speak for themselves.

14 3.10 Deny.

15 3.11 Admit that the pool is in a dramatic state of disrepair which will be very  
16 expensive to fix.

17 3.12 Without specific knowledge, therefore deny.

18 3.13 Deny.

19 3.14 The ballot speaks for itself.

20 3.15 Admit. A majority of duly voting members voted to close the pool.

21 3.16 Deny.

22 3.17 Deny.

23 3.18 Without specific knowledge therefore deny.

24 3.19 Deny.

25 3.20 Deny.

26 3.21 Deny.

27 3.22 Deny.

28 3.23 Deny.

1 **AFFIRMATIVE DEFENSES**

- 2 1. Plaintiff has failed to state a claim upon which relief can be granted.
- 3 2. Plaintiff's Declaratory Judgment request fails to meet the requirements of  
4 RCW 7.24.110 in that not all individuals who would be affected by the request have  
5 been made parties to this suit. This is also a failure to join an indispensable party.
- 6 3. Other statutory requisites for a Declaration Judgment Action have not been  
7 met.
- 8 4. Plaintiff's claims are barred by the doctrine of estoppel, waiver, and laches.
- 9 5. Plaintiff's claims are barred by the statute of frauds.
- 10 6. Plaintiff's claims are barred by the applicable statute of limitations.
- 11 7. Plaintiff's request for injunction is barred by the doctrine of unclean hands.
- 12 8. There is no adequate remedy at law for plaintiff's claims.
- 13 9. Plaintiff's claims are barred by the business judgment rule.

14 **REQUEST FOR RELIEF**

- 15 1. Intervenor denies that plaintiff is entitled to any of the relief sought.
- 16 2. Intervenor requests an order DENYING AND DISMISSING plaintiff's claims  
17 for a Declaratory Judgment, for an Injunction, and for Damages.
- 18 3. Intervenor requests an award of attorney fees and costs pursuant to  
19 applicable law.
- 20 4. Intervenor requests any other relief that the Court finds just and equitable.

21 Respectfully Submitted

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24 Jay Carlson, WSBA 30411  
25 Attorney for Intervenor Susan Corliss  
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