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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 Defendant.  
24

25 AND RELATED COUNTERCLAIMS  
26  
27  
28

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

Hon. Manuel L. Real

**OPPOSITION TO PLAINTIFFS  
AND COUNTER-DEFENDANTS'  
MOTION *IN LIMINE* TO  
PRECLUDE DEFENDANT FROM  
REFERRING TO THE B&D  
PARTIES COLLECTIVELY**

Date: May 15, 2017

Time: 10:00 a.m.

Courtroom: 880

Complaint Filed: September 17, 2015

1 Pursuant to this motion, a colossal waste of the Court’s time and resources,  
2 Counter-Defendants Bennion & Deville Fine Homes, Inc. (“B&D Fine Homes”),  
3 Bennion & Deville Fine Homes SoCal, Inc. (“B&D SoCal”), Windermere Services  
4 Southern California, Inc. (“WSSC”), Robert L. Bennion and Joseph R. Deville ask  
5 the Court to preclude Defendant and Counterclaimant Windermere Real Estate  
6 Services Company (“WSC”) from referring to B&D Fine Homes, B&D SoCal, and  
7 WSSC collectively as “the B&D Parties.” Ironically, Counter-Defendants *refer to*  
8 *themselves* collectively as the B&D Parties in the very motion that seeks to preclude  
9 WSC from doing the same. WSC opposes this motion because it believes the  
10 parties are perfectly capable of referring to each other in an accurate and clear  
11 manner.

12 In fact, as is clear from the single piece of supporting evidence offered by  
13 Counter-Defendants, WSC and its witnesses are able to refer to the B&D Parties  
14 individually and collectively in a clear and accurate manner. In the excerpt provided  
15 by Counter-Defendants, WSC’s damages expert, Neil Beaton, refers to the  
16 B&D Parties individually and collectively as appropriate. Specifically, Mr. Beaton  
17 states that Messrs. Bennion and Deville claimed two of their entities, B&D Fine  
18 Homes and B&D SoCal, were struggling financially while the “Bennion & Deville  
19 Entities,” defined as B&D Fine Homes, B&D SoCal, and WSSC, “were paying  
20 millions of dollars of personal, non-business expenditures.” (Document No. 102-1,  
21 Adams. Decl., Ex. A, ¶ 36.) This demonstrates that WSC and its witnesses are  
22 plainly able to refer to a single entity, or the entities collectively, as appropriate  
23 under the circumstances.

24 That said, in the event the Court finds that the parties are not clearly  
25 presenting their cases or are creating confusion for the jury, WSC would welcome,  
26 and most certainly would comply with, any direction or instruction deemed by the  
27 Court to be appropriate at that time.

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Counter-Defendants’ motion is unnecessary and an inappropriate waste of time and resources. Accordingly, Defendant and Counterclaimant Windermere Real Estate Services Company respectfully requests that this Motion to Preclude WSC From Referring to the B&D Parties Collectively be denied in its entirety.

DATED: April 24, 2017 PEREZ VAUGHN & FEASBY INC.

By: /s/ Jeffrey A. Feasby  
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