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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR MARICOPA COUNTY**

TURTLE ROCK III HOMEOWNERS
ASSOCIATION, an Arizona non-profit
corporation;

Plaintiff,

Vs.

LYNNE A. FISHER, record owner;

Defendant.

Case No. CV2015-095897

**OBJECTION TO DEMAND
FOR JURY TRIAL**

Plaintiff TURTLE ROCK III HOMEOWNERS ASSOCIATION, (“Plaintiff”), by and through counsel undersigned, hereby files its Objection to Defendant LYNNE A. FISHER’s (“Defendant”) Demand for Jury Trial.

Arizona law has long been recognized that no right to a jury trial exists in actions of equity. With regard to equitable actions, the Arizona Supreme Court holds:

Even if this action [is] considered as in equity, nevertheless defendant conceives that he was entitled to a jury trial. He cites the case of brown v. Greer, 16 Ariz. 215, 141 Pac. 841, in which there is to be found a dictum to the effect that the Constitution of the state guarantees trial by jury in all cases,

1 without any distinction of law or equity. That is not the law
2 of this state, and has never been. The organic act, supported
3 by a number of decisions of this court, both before and since
4 statehood, is in conflict with it. The Constitution does not
5 assume to create any such right. On the contrary it preserves
6 and perpetuates equity jurisdiction, expressly vesting it in the
7 courts of the state. Arizona Constitution, art. 6, § 6.

8 *Davis v. First Nat. Bank*, 26 Ariz. 621, 626, 229 P. 391, 392 (1924). That this is an equitable
9 action is not disputed by the parties. Even assuming it was disputed, dispositive case law
10 settles the question. “Equitable principles govern the enforcement of restrictive covenants
11 by injunction.” *Flying Diamond Airpark, LLC v. Meienberg*, 156 P. 3d 1149, ¶10, 215 Ariz.
12 44 (App. 2007) (citing *Ahwatukee Custom Estates Mgmt. Ass’n v. Turner*, 196 Ariz. 631, ¶5,
13 2P.3d 1276, 1279 (App. 2000)).

14 DATED this 12th day of January, 2016.

15 **GOODMAN LAW OFFICES, PC**

16
17 /s/ Clint G. Goodman

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ORIGINAL e-filed this same day with:

The Clerk of the Court

COPY MAILED via U.S. Mail this same day to:

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By: /s/Kirsten Siebert

