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*Attorneys for Plaintiff*

By: Clint G. Goodman, Bar No. 024188  
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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA**

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

Plaintiff,

vs.

LYNNE A. FISHER, record owner;

Defendant.

No. CV2015-095897

**JOINT PRETRIAL STATEMENT**

**Assigned to the Honorable: David M.  
Talamante**

Pursuant to Rule 16(g), Arizona Rules of Civil Procedure, the undersigned Plaintiff, after attempting to file a joint pre-trial memorandum but not able to do so, hereby files the following Pre-Trial Statement. Admittedly, Defendant counsel is attempting to work in good faith with Plaintiff counsel but may be having difficulty obtaining approval from his client, therefore, in order to substantially comply with this court's order, Plaintiff unilaterally files this statement as follows:

**I. THE FOLLOWING FACTS ARE DEEMED MATERIAL AND ADMITTED:**

1. The parties are governed by a Declaration of Covenants, Conditions and Restrictions, recorded with the Maricopa County Recorder's Office at Instrument No. 2006-1162796 ("Declaration").

1           2.       Defendant Lynne A. Fisher (“Defendant”) is the record owner of property within  
2 the Association located at 901 E. Michigan Avenue, Phoenix, Arizona 85022 (“Property”) and  
3 is legal described as follows:

4           Lot 56, Turtle Rock III, according to book 247 of maps, page 43, records of  
5 Maricopa County, Arizona.

6           3.       Up to and including November 1, 2015, Defendant was fined \$7,942.50 for the  
7 alleged violations.

8           4.       On or about September 16, 2015, Defendant received undersigned counsel’s  
9 written notice of alleged violations and was warned that the failure to cure may result in  
10 injunctive relief and monetary penalties of \$25 per day. The \$25 per day fine, as of January  
11 21, 2016, was \$10,097.75.

12 **II. THE FOLLOWING ISSUES OF LAW ARE DEEMED MATERIAL AND**  
13 **ADMITTED:**

14           1.       The Declaration constitutes a contract between the parties.

15           2.       Arizona law authorizes the issuance of injunctive relief for violations of the  
16 Declaration, assuming Plaintiff meets its burden of proof as to whether violations exist.

17           3.       Arizona law authorizes the charging of reasonable monetary penalties for  
18 violations to the Declaration after notice and an opportunity to be heard.

19 **III. THE FOLLOWING ARE OTHER CONTESTED FACTS WHICH ARE**  
20 **DEEMED MATERIAL OR APPLICABLE BY BOTH OF THE PARTIES.**

21           1.       Whether the Defendant’s garage violates the Declaration.

22           2.       Whether the Defendant’s landscaping violates the Declaration.

23           3.       Whether the Defendant’s backyard garage door violates the Declaration.

24           4.       Whether the Defendant’s window blinds violate the Declaration.

25 **IV. THE FOLLOWING ARE OTHER CONTESTED ISSUES OF LAW DEEMED**  
26 **MATERIAL OR APPLICABLE BY BOTH OF THE PARTIES.**

27           1.       None.  
28

1 **V. SEPARATE STATEMENT OF OTHER ISSUES OF FACT DEEMED**  
2 **RELEVANT BY ONE OF THE PARTIES**

3 **A. PLAINTIFF'S RELEVANT ISSUES OF FACT**

4 1. Whether Plaintiff's curing of all violations alleged in the Complaint (except for  
5 the garage, landscaping and backyard garage door) after being served with this action  
6 constitutes an admission that the cured items were in fact violations of the Declaration.

7 **B. DEFENDANT'S RELEVANT ISSUES OF FACT**

8 1. None.  
9

10 **VI. SEPARATE STATEMENT OF OTHER ISSUES OF LAW DEEMED**  
11 **RELEVANT BY ONE OF THE PARTIES**

12 **A. PLAINTIFF'S RELEVANT ISSUES OF LAW**

13 1. Whether Plaintiff's Complaint, which compelled Defendant's compliance to  
14 all but the three outstanding alleged violations above, deem Plaintiff the prevailing party  
15 entitled to attorney fees and costs.

16 **B. DEFENDANT'S RELEVANT ISSUES OF LAW**

17 1. None.  
18

19 **VII. LIST OF WITNESSES TO BE USED BY EACH PARTY DURING THE**  
20 **TRIAL.**

21 **A. PLAINTIFF'S WITNESSES**

Witness	Objection and Basis Thereof
Annette Milauskas	No objection
Verl Curtiss	No objection

22  
23  
24  
25  
26  
27 **B. DEFENDANT'S WITNESSES**  
28

Witness	Objection and Basis Thereof
Defendant	No objection

**VIII. ATTACHED IS A LIST OF EXHIBITS WHICH EACH PARTY INTENDS TO USE AT THE TRIAL WITH THE OBJECTION TO EVIDENCE RESERVED BY THE OTHER PARTY OBJECTIONS:**

- S = Settlement
- P = Privilege
- R = Relevance
- M = Materiality
- F = Foundation
- H = Hearsay
- N = Nondisclosed

**A. PLAINTIFF’S EXHIBITS**

No.	Description	Objection
1	Declaration	None
2	Deed	None
3	Ledger	None
4	Correspondences regarding alleged violations and fines	None
5	Photographs of alleged violations	None

Plaintiff specifically reserves the right to utilize any exhibit listed by Defendant below.

**B. DEFENDANT’S EXHIBITS**

No.	Bates No.	Description	Objection
None			

Defendant specifically reserves the right to utilize any exhibit listed by Defendant below.

**IX. JOINT STATEMENT OF CASE**

1 This is case is about whether a member of a homeowners association is in violation  
2 of its Declaration. Specifically, whether the garage, backyard garage door and landscaping  
3 violate the Declaration. It is also about whether the Owner is obligated to pay fines for  
4 alleged violations.

5 **X. TECHNICAL EQUIPMENT NEEDED OR INTERPRETES REQUESTED**

6 None.  
7

8 **XI. WHETHER ANY PARTY WILL BE INVOKING RULE 615 OF THE**  
9 **ARIZONA RULES OF EVIDENCE REGARDING THE ECLUSION OF**  
10 **WITNESSES**

11 None.

12 **XII. BRIEF DESCRIPTION OF SETTLEMENT EFFORTS**

13 Plaintiff attempted to resolve this matter with both Defendant prior to representation  
14 and with Defendant's attorney after the matter was filed. Defendant did not respond to any  
15 of Plaintiff's settlement offers and did not provide any counter-offers. Admittedly,  
16 Defendant did cure numerous violations *but only after* being served with this action.

17 DATED this \_\_\_\_\_ day of April, 2016

18  
19 **GOODMAN LAW OFFICES, PC**

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22 CLINT G. GOODMAN  
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**ORIGINAL** of the foregoing e-filed with:

The Clerk of The Court

**COPY** mailed this 12th day of April, 2016 to:

Mr. Roger Wood  
**Law Offices of J. Roger Wood**  
4700 S. Mill Avenue, Suite 3  
Tempe, Arizona 85282  
*Attorneys for Defendant*

*/s/ Clint G. Goodman*

By: \_\_\_\_\_

