

No. 91247-5

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SUPREME COURT OF THE STATE OF WASHINGTON

CAROLYN ROBBS BILANKO, an
individual,

Plaintiff/Petitioner,

vs.

BARCLAY COURT OWNERS
ASSOCIATION, a Washington non-
profit corporation,

Defendant/Appellant.

APPELLANT BARCLAY
COURT OWNERS
ASSOCIATION'S FIRST
STATEMENT OF
ADDITIONAL AUTHORITY

Appellant Barclay Court Owners Association ("Barclay Court") pursuant to RAP 10.8 offers the following additional authorities regarding two issues related to the time-bar: (1) whether amendments to governing documents are simply voidable pursuant to a *timely* challenge, not void *ab initio*, if the challenge concerns alleged failure to act in conformance with the adoption process in circumstances short of fraud; and (2) whether a statute of limitations applicable to an action to invalidate an amendment to governing documents runs from recording of the amendment because both harm and constructive notice occur at that time.

1. *Costa Serena Owners Coalition v. Costa Serena Architectural Committee*, 175 Cal. App. 4th 1175, 1190-1198, 97 Cal. Rptr. 3d 170, 182-188 (2009) ("The Coalition's only challenge to the

Amendments is that they were enacted in a manner that failed to conform to the requirements of the provision that outlined how the DoR's/UDoR could be amended. Since this is the only challenge to the validity of the Amendments, the Coalition's claims would render the Amendments voidable, not void ab initio."); and

2. *Schuman v. Ignatin*, 191 Cal. App. 4th 255, 191 Cal. App. 4th 255, 267, 119 Cal. Rptr. 3d 318, 328 (2010) ("Application of the statute of limitations is particularly appropriate in this case, because Ignatin's challenge was to a recorded Amendment to CC&R's—brought almost 10 years after it was recorded—on which property owners have relied in purchasing, selling, or retaining their property.").

Respectfully submitted on this 16th day of February, 2016.

SCHWABE, WILLIAMSON & WYATT, P.C.

By: 
Averil Rothrock, WSBA #24248
arothrock@schwabe.com
Lawrence A. Costich, WSBA #32178
lcostich@schwabe.com
Milton A. Reimers, WSBA #39390
mreimers@schwabe.com
*Attorneys for Barclay Court Owners
Association*

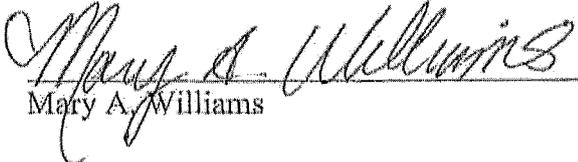
CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct: That on the 16th day of February, 2016, I arranged for service *via email (pursuant to the parties' written agreement)* the foregoing APPELLANT BARCLAY COURT OWNERS ASSOCIATION'S FIRST STATEMENT OF ADDITIONAL AUTHORITY to the parties to this action as follows:

Matthew D. Hartman
Impact Law Group PLLC
1325 Fourth Ave., Ste. 1400
Seattle, WA 98101
Email: matt@impactlawgroup.com
Attorney for Plaintiff

Carolyn Robbs Bilanko
Bracewell & Giuliani LLP
701 5th Ave., Ste. 6200
Seattle, WA 98104
Email: Carolyn.bilanko@bgllp.com
Attorney for Plaintiff

Jeffrey E. Bilanko
Gordon & Rees LLP
701 5th Ave., Ste. 2100
Seattle, WA 98104
Email: jbilanko@gordonrees.com
Attorney for Plaintiff



Mary A. Williams

OFFICE RECEPTIONIST, CLERK

To: Williams, Mary A.
Subject: RE: Supreme Court No. 91247-5/Appellant's First Statement of Additional Authority

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Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Williams, Mary A. [mailto:MAWilliams@SCHWABE.com]
Sent: Tuesday, February 16, 2016 11:00 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: matt@impactlawgroup.com; 'carolyn.bilanko@bgllp.com' <carolyn.bilanko@bgllp.com>; 'jbilanko@gordonrees.com' <jbilanko@gordonrees.com>; Rothrock, Averil <ARothrock@SCHWABE.com>; Reimers, Milt A. <MReimers@SCHWABE.com>; Costich, Larry <LCostich@SCHWABE.com>
Subject: Supreme Court No. 91247-5/Appellant's First Statement of Additional Authority

Dear Clerk:

Attached please find *Appellant's First Statement of Additional Authority* to be filed with the Court.

Thank you,

Mary

MARY A. WILLIAMS | Legal Assistant
SCHWABE, WILLIAMSON & WYATT
1420 5th Ave., Ste. 3400 Seattle, WA 98101
Direct: 206-407-1568 | Fax: 206-292-0460 | Email: mawilliams@schwabe.com
Assistant to Averil Rothrock and Jeremy Vermilyea
Legal advisors for the future of your business®
www.schwabe.com

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