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b/h

No. 91247-5

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SUPREME COURT OF THE STATE OF WASHINGTON

CAROLYN ROBBS BILANKO, an individual,

Plaintiff/Respondent,

vs.

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

Defendant/Appellant.

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

CORRECTED

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



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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 16<sup>th</sup> day of February, 2016.

SCHWABE, WILLIAMSON & WYATT, P.C.

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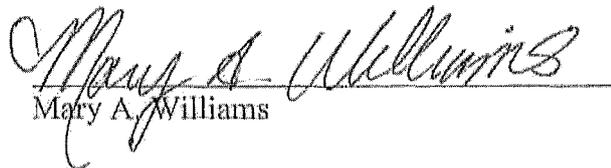
**CERTIFICATE OF SERVICE**

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 16<sup>th</sup> 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:

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\_\_\_\_\_  
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## OFFICE RECEPTIONIST, CLERK

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**Cc:** 'matt@impactlawgroup.com'; 'carolyn.bilanko@bgllp.com'; 'jbilanko@gordonrees.com'; Rothrock, Averil; Reimers, Milt A.; Costich, Larry  
**Subject:** RE: Supreme Court No. 91247-5/"Corrected Version" Appellant's First Statement of Additional Authority

Received 2-16-16

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.

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**Subject:** Supreme Court No. 91247-5/"Corrected Version" Appellant's First Statement of Additional Authority

Dear Clerk:

Attached please find a corrected version of *Appellant's First Statement of Additional Authority* to be filed with the Court. The first filing sent this morning incorrectly identified Ms. Bilanko as the Petitioner when she is the Respondent.

Thank you,

Mary

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