

1 NIALL P. McCARTHY (SBN 160175)
nmccarthy@cpmlegal.com
2 ANNE MARIE MURPHY (SBN 202540)
amurphy@cpmlegal.com
3 DEMETRIUS X. LAMBRINOS (SBN 246027)
dlambrinos@cpmlegal.com
4 **COTCHETT, PITRE & McCARTHY, LLP**
840 Malcolm Road
5 Burlingame, California 94010
Telephone: (650) 697-6000
6 Facsimile: (650) 692-3606

7 *Attorneys for Plaintiffs Burton Richter,*
8 *Linda Collins Cork, Georgia L. May,*
9 *Thomas Merigan, Alfred Spivack,*
10 *and Janice R. Anderson.*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 **BURTON RICHTER**, an individual; **LINDA**
14 **COLLINS CORK**, an individual; **GEORGIA L.**
15 **MAY**, an individual; **THOMAS MERIGAN**, an
individual; **ALFRED SPIVACK**, an individual;
16 and **JANICE R. ANDERSON**, an individual; on
behalf of themselves and all others similarly
situated,

17 Plaintiffs,

18 v.

19 **CC-PALO ALTO, INC.**, a Delaware
corporation; **CLASSIC RESIDENCE**
20 **MANAGEMENT LIMITED PARTNERSHIP**,
an Illinois limited partnership; and **CC-**
21 **DEVELOPMENT GROUP, INC.**, a Delaware
corporation,
22

23 Corporate Defendants.
24
25
26
27
28

Case No. 5:14-cv-00750-HRL

DECLARATION OF DEMETRIUS X.
LAMBRINOS IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
CORPORATE DEFENDANTS'
MOTION TO DISMISS FIRST
AMENDED COMPLAINT

Date: May 14, 2015
Time: 9:00 a.m.
Courtroom: 4, 5th Floor
Judge: Hon. Edward J. Davila

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. I am an attorney duly admitted to practice before all courts of the State of California, and am an attorney with the law firm of Cotchett, Pitre & McCarthy, LLP, attorneys for Plaintiffs in this matter. I make this of my own personal knowledge and, if called to testify as a witness, could and would competently testify to the matters stated herein.

3. Attached hereto as Exhibit 2 is a true and correct copy of a letter from Anne Marie Murphy to James McManis dated March 27, 2014 regarding violations of the Consumers Legal Remedies Act.

/s/ Demetrius X. Lambrinos
DEMETRIUS X. LAMBRINOS

Exhibit 1

1 NIALL P. McCARTHY (SBN 160175)
nmccarthy@cpmlegal.com
2 ANNE MARIE MURPHY (SBN 202540)
amurphy@cpmlegal.com
3 DEMETRIUS X. LAMBRINOS (SBN 246027)
dlambrinos@cpmlegal.com
4 COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road
5 Burlingame, California 94010
Telephone: (650) 697-6000
6 Facsimile: (650) 692-3606

7 *Attorneys for Plaintiffs Burton Richter,*
8 *Linda Collins Cork, Georgia L. May,*
9 *Thomas Merigan, Alfred Spivack,*
10 *and Janice R. Anderson*

11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 **BURTON RICHTER**, an individual; **LINDA**
15 **COLLINS CORK**, an individual; **GEORGIA**
16 **L. MAY**, an individual; **THOMAS**
17 **MERIGAN**, an individual; **ALFRED**
18 **SPIVACK**, an individual; and **JANICE R.**
19 **ANDERSON**, an individual; on behalf of
20 themselves and all others similarly situated,

21 Plaintiffs,

22 v.

23 **CC-PALO ALTO, INC.**, a Delaware
24 corporation; **CLASSIC RESIDENCE**
25 **MANAGEMENT LIMITED**
26 **PARTNERSHIP**, an Illinois limited
27 partnership; and **CC-DEVELOPMENT**
28 **GROUP, INC.**, a Delaware corporation,

Defendants.

Case No. 5:14-cv-00750-HRL

**AFFIDAVIT OF BURTON RICHTER IN
SUPPORT OF VENUE PURSUANT TO
CALIFORNIA CIVIL CODE SECTION
1870(d)**

AFFIDAVIT OF BURTON RICHTER

I, BURTON RICHTER, state and declare as follows:

1. I am a Plaintiff in the above-entitled action, and I bring this action on behalf of myself and all others similarly situated.

2. I am a competent adult over eighteen years of age and I have personal knowledge of the following facts for which I could and would competently testify to under oath in open court if called to do so.

3. I am a resident of the County of Santa Clara, in the State of California.

4. The facts, transactions, and occurrences set forth in the Complaint took place in the County of Santa Clara, in the State of California.

5. I am informed and believe that the appropriate venue of this matter is the Northern District of California.

I declare under penalty of perjury under the laws of the State of California, and the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on this 28 day of March of 2014 in Palo Alto, California.


BURTON RICHTER

Exhibit 2

LAW OFFICES

COTCHETT, PITRE & MCCARTHY, LLP

SAN FRANCISCO AIRPORT OFFICE CENTER

840 MALCOLM ROAD

BURLINGAME, CALIFORNIA 94010

TELEPHONE (650) 897-8000

FAX (650) 897-0577

LOS ANGELES
SACRAMENTO

NEW YORK
WASHINGTON, DC

March 27, 2014

Via Registered Mail & E-mail

James McManis

McManis Faulkner

Fairmont Plaza, 10th Floor

50 West San Fernando Street

San Jose, CA 95113

jmcmanis@mcmanislaw.com

Re: VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT

Dear Mr. McManis:

This letter constitutes a post-filing notice of a damages claim under the California Consumer Legal Remedies Act ("CLRA"), California Civil Code Section 1750, *et seq.* ("the Act") and California Civil Code Section 1782(d) to your clients (CC-Palo Alto Inc., CC-Development Group, Inc. ("CC-Chicago"), and Classic Residence Management Limited Partnership) that they have violated the Act. As you know, my firm represents the residents of the Vi at Palo Alto. This letter also serves as our demand that you remedy your violation of the CLRA within 30 days of this notice.

Our clients are a proposed class of all residents of the Vi at Palo Alto from January 1, 2005 to the present. Prior to entering their Residency Contracts and residing at the Vi at Palo Alto, your clients made representations regarding the sense of security that the residents of the Vi at Palo Alto would experience, including that they would enjoy financial security. Nowhere in the Vi at Palo Alto's extensive marketing material was it disclosed that the Vi at Palo Alto would not maintain cash reserves. Based on the promises of the Vi at Palo Alto, each of the residents provided your clients refundable Entrance Fees. These Entrance Fees have been transferred out of state by your client to its corporate parent in violation of the Act, and the corporate parent, Defendant CC-Chicago, has disclaimed any responsibility to the residents. Your client, Classic Residence Management Limited Partnership is responsible for setting budgets and is therefore complicit in the scheme to up-stream funds between CC-Palo Alto and CC-Chicago. Moreover, each of these residents has paid monthly fees since entering the Vi at Palo Alto. Your clients have artificially inflated these monthly fees in violation of the Act. These monthly fees have been inflated due to marketing expenses that benefitted facilities other than the Vi at Palo Alto,

LAW OFFICES

COTCHETT, PITRE & MCCARTHY, LLP

March 27, 2014

Mr. McManis

Page 2

and earthquake insurance charges that covered the buildings at the Vi at Palo Alto for which the residents are not responsible. Furthermore, funds that should be available to decrease monthly fees are being improperly held in an account pending the outcome of your clients' appeal of the tax assessment.

Based on this conduct, my clients demand that your clients cease these practices, recover all funds that have been up-streamed, and provide refunds for all overcharges to every member of the proposed class. Your failure to comply with this notice and demand will force us to pursue damages claims under the CLRA.

Thank you for your attention to this matter and anticipated cooperation. If you have questions or wish to discuss this matter further, please do not hesitate to contact our office.

Sincerely,



ANNE MARIE MURPHY