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SUPERIOR COURT OF WASHINGTON FOR CLALLAM COUNTY

BLUE RIBBON FARMS PROPERTY OWNERS' ASSOCIATION, a Washington non-profit corporation,

Plaintiff,

v.

MICHAEL and MARILYN MASON, and THE MARITAL COMMUNITY COMPOSED THEREOF,

Defendants.

NO. 22-2-00270-05

ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, ISSUANCE OF PERMANENT INJUNCTION AGAINST DEFENDANTS AND JUDGMENT FOR AMOUNT OF ATTORNEYS' FEES AND COSTS

BEFORE THE COURT is Plaintiff's Motion for Summary Judgment seeking a declaratory judgment that the Defendants have violated the Declaration of Covenants, Conditions and Restrictions that apply to the Blue Ribbons Farm subdivision ("Declaration"); a permanent injunction enjoining the Defendants from further Violations; and an award of attorney's fees and costs.

THE COURT HAVING CONSIDERED the following :

1. Plaintiff's Motion for Summary Judgment.
2. Declaration of Mark Long in Support of Motion for Summary Judgment.
3. Declaration of Andrew Zacharias in Support of Motion for Summary Judgment.
4. Declaration of David Woodcock in Support of Motion for Summary Judgment.
5. Declaration of Keri McIntyre in Support of Motion for Summary Judgment.
6. Declaration of Nancy Powell in Support of Motion for Summary Judgment.
7. Declaration of Judith A. Endejan in Support of Motion for Summary Judgment.
8. Defendants' Response to Plaintiff's Motion for Summary Judgment.

- 1 9. Declaration of Marilyn Mason.
- 2 10. Declaration of Michael Mason.
- 3 11. Plaintiff's Reply to Defendants' Response to Plaintiff's Motion.
- 4 12. The Second Declaration of David Woodcock.
- 5 13. The Second Declaration of Andrew Zacharias.
- 6 14. Motion to Set Attorney's Fees.
- 7 15. Declaration of Judith A. Endejan in Support of Motion to Set Attorney's Fees.
- 8 16. The files and records herein.

9 THE COURT, HAVING SET FORTH A MEMORANDUM OPINION ON  
10 OCTOBER 3, 2022, WITH SUPPORTING FACTS AND CONCLUSIONS OF LAW,  
11 WHICH ARE INCORPORATED HEREIN, NOW HEREBY FINDS AND ORDERS:

12 A. There is no dispute of material fact that the Masons have violated the  
13 Declaration, Art. III, Section 2(d) and Art. V, Section 6 by their actions in using the BRF  
14 airstrip for a commercial purpose and by operating their business, Mason Wing Walking  
15 Academy ("MWWA"), in a manner that gives the outward appearance of a business outside of  
16 their personal residence, which increases traffic beyond what is normal for residential use.

17 These violations are material to the overall purpose of the Declaration. Therefore, the  
18 Court GRANTS the Plaintiff's Motion for Summary Judgment.

19 B. The Plaintiff is entitled to judgment as a matter of law having established that it has  
20 a clear legal or equitable right to enforce the Declaration; that the Plaintiff has established a  
21 well-grounded fear of continued, immediate invasion of that right and that the Plaintiff has  
22 established the requisite level of actual or substantial injury. Therefore, this Court will issue  
23 the requested injunction:

24 1. The Masons are permanently enjoined from using the BRF airstrip for the  
25 purpose of operating flights for the MWWA or any other commercial business.

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1           2. The Masons are permanently enjoined from conducting their business, MWWA, or  
2 any other business activity that involves the offering of wing-walking training and/or  
3 experiences, outside the confines of their residential structure, as they have done in the past,  
4 through use of a hangar and other property outside of their residence for the purpose of  
5 conducting wing-walking lessons and inviting students to their property for wing-walking  
6 lessons and experiences. The Masons are ordered to comply with the Declaration Art. V.,  
7 Section 6.

8           3. The Court ORDERS an award of reasonable attorney’s fees and costs in favor  
9 of the Plaintiff pursuant to the Declaration, Art.VI., Section (3)(e) in the amount of  
10 \_\_\_\_\_. JUDGMENT IS ENTERED HEREIN FOR THAT AMOUNT  
11 AGAINST DEFENDANTS.

12           The Court has determined that this amount is fair and just, according to the lodestar  
13 method, approved by the Washington Supreme Court in *Scott Fetzer Co., v. Weeks*, 786 P.s.  
14 265, 273 (1990). Based upon the facts set forth in the Declaration of Judith Endejan in Support  
15 of Motion to Set Attorney’s Fees the Court finds:

- 16           • The hourly rate of the Plaintiff’s counsel is reasonable for the professional services  
17 rendered, given the level of her experience and expertise.
- 18           • The hourly rate of the Plaintiff’s counsel is within the boundaries of rates  
19 customarily charged within Western Washington for similar services provided by  
20 other attorneys.
- 21           • The time spent by the Plaintiff’s counsel was not wasteful or duplicative as it  
22 involved legal work based upon common facts and operative legal issues associated  
23 with the Defendants’ breach of the Declaration through their operation of MWWA.

24           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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CLALLAM CO. SUPERIOR COURT  
JUDGE LAUREN ERICKSON

*Presented by:*

ENDEJAN LAW, LLC

By: s/ JUDITH A. ENDEJAN  
Judith A. Endejan, WSBA #11016  
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206-799-4843

Attorney for Plaintiffs