

Blue Ribbon Farms Property Owners’s Association v. Michael and Marilyn Mason  
Motion for Summary Judgment by the Superior Court for the State of Washington  
In and for the County of Clallam  
No. 22-2-00270-05

Court-related documents  
Current as of August 31, 2022

Table of Contents

Document name	PDF page
Amended Notice of Hearing dated August 29, 2022	2
Plaintiff’s Motion for Summary Judgment	3
Proposed Order Granting Plaintiff’s Motion for Summary Judgment	21
Declaration of Judith A. Endejan in Support of Plaintiff Motion	24
Declaration of Mark Long, chair of BRFPOA Board of Directors	41
Declaration of Keri McIntyer in support of Plaintiff Motion	75
Declaration of Nancy Powell in support of Plaintiff Motion	79
Declaration of David Woodcock in support of Plaintiff Motion	84
Declaration of Andrew Zacharias in support of Plaintiff Motion	90

**Superior Court of Washington, County of Clallam**

BLUE RIBBONS FARMS PROPERTY OWNERS' ASSOCIATION,

Plaintiff,

v.

MICHAEL and MARILYN MASON,

Defendants.

No. 22-2-00270-05

**AMENDED NOTICE OF HEARING (NTHG)**

(Optional Use)

(Clerk's Action Required)

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TO: THE CLERK OF THE COURT

AND TO: DEFENDANTS MASON, by and through their counsel of record

Plaintiff Blue Ribbons Farms Property Owners' Association has filed a motion for the following relief:

**MOTION FOR SUMMARY JUDGMENT**

A hearing will be held on (date) Friday, September 23, 2022, at 1:30 p.m. (location) before Judge Lauren Erickson to determine whether the requested relief should be granted. **IF YOU DO NOT APPEAR, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED.**

Dated: August 29, 2022

s/Judith A. Endejan

Judith A. Endejan, WSBA #11016  
5109 23rd Avenue W  
Everett, WA 98203  
jendejan@gmail.com  
206-799-4843

**This document must be served on the other party, and proof of service must be in the court file prior to the hearing.**

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

The Defendants Michael and Marilyn Mason ("Masons" or "Defendants") own and run a business called the Mason Wing Walking Academy ("MWWA")<sup>1</sup> on their residential property in the Blue Ribbons Farms ("BRF") subdivision development in Sequim. Customers pay MWWA between \$750 and \$985 for a package that includes lessons, photos, and a flight in a biplane from which the customers climb out on to the upper or lower wing for thrills. Until recently the Masons have used an airstrip in BRF to take off and land the MWWA biplanes. They provide wing-walking lessons in a hangar on their property next to their residence. Their business draws a lot of traffic to BRF and MWWA flights have increasingly

<sup>1</sup> This is the dba for West Coast Spin Doctors, a Washington limited liability company.

1 caused a high level of noise within BRF, which is a peaceful, quiet residential community in  
2 Sequim with beautiful views of the Olympic Mountains and Puget Sound. BRF is governed  
3 by a Declaration of Covenants, Conditions and Restrictions (“Declaration”). Amended  
4 Complaint, Exhibit A. The Declaration expressly prohibits what the Masons have been doing  
5 in running the MWWA. As discussed further herein, earlier this year the BFR Owners  
6 Association Board of Directors (“BOD” or “Board”) and some BRF residents learned certain  
7 facts that compelled the Board to take action to enforce the Declaration to stop the Masons  
8 from operating the MWWA as they have been doing:

- 9 • They learned that the MWAA flights did not comply with the regulations of the  
10 Federal Aviation Administration (“FAA”), contrary to the Masons’ prior  
11 representations to the Board, in violation of the Declaration.
- 12 • They learned that MWAA flights provided significant revenues to the Masons,  
13 which made the MWAA use of the BRF airstrip “commercial”, contrary to the  
14 Masons’ representation that MWWA’s flights were “free” and therefore non-  
15 commercial, in violation of the Declaration.
- 16 • They learned that the Masons have no liability insurance for the MWWA business  
17 that would cover any injury due to the ultrahazardous activity of wing-walking,  
18 and indemnify the Board and BRF residents, from liability claims, contrary to the  
19 Masons’ representations.
- 20 • The increased traffic caused by MWWA customers and increased highly visible  
21 activity of wing-walking training outside of the Masons’ residence has created  
22 exactly the type of business enterprise prohibited by the Declaration, Art. V.  
23 Section 6.

24 Given these discoveries, and other complaints from BRF residents about MWAA’s  
25 disruptive activities the Board decided to enforce the Declaration, which clearly does not  
26 allow the kind of business run by the Masons within the residential BRF community. The  
27

1 Board initially tried to do this through informal means but had no choice but to seek this  
2 Court's assistance because the Masons' have resisted efforts to come to a compromise on  
3 how to comply with the Declaration, have distributed defamatory communications about the  
4 Board, and physically threatened Board members over this litigation. BRF needs an  
5 injunction to force the Masons to permanently cease using the BRF airstrip for MWA and to  
6 move their wing-walking business out of the BRF residential community.

## 7 II. STATEMENT OF FACTS

### 8 A. The BRF Declaration Binds all BRF Residents and Can be Enforced by the 9 Board.

10 BRD residents become members of the Blue Ribbons Farms Property Owners  
11 Association ("BRF Association") when they purchase property within the community and are  
12 subject to the Declaration which runs with the land. Currently there are 135 members of the  
13 BRF Association. Declaration of Mark Long in Support of Motion for Summary Judgment  
14 ("Long Decl.") ¶ 2. All members, including the Masons,<sup>2</sup> either have a copy of the  
15 Declaration or access to it on the BRF Association's website:  
16 <http://www.blueribbonfarmsassociation.com>.

17 The BRF Association owns an airstrip, which is common space located on the  
18 common property within BRF, called Parcel 39, to be used by BRF owners for purposes  
19 of takeoff and landing of aircraft for non-commercial purposes. Each owner has a non-  
20 exclusive right to use the airstrip subject to the restrictions in the Declaration. Long Decl.  
21 ¶ 3.

22 The first restriction in the Declaration requires all users of the BRF airstrip to  
23 abide by the regulations of the FAA when operating aircraft. Declaration, Art. III,  
24 Sections 1, 2(b) and 6(a). The second restriction in the Declaration prohibits "use of the  
25 airstrip for commercial purposes". Declaration, Art. III, Section 2(d).

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26 <sup>2</sup> The Masons produced their copy of the Declaration in discovery. Declaration of Judith Endejan in Support of  
27 Motion for Summary Judgment ("Endejan Decl.") ¶ 7.

1 The Declaration also contains restrictions to protect the residential character of the  
2 community forbidding disruptive, visible business activity within BRF. Restrictions are  
3 placed on operating “home business enterprises” in Art. V. Section 6. These must be  
4 carried on “entirely within the lot owners residential type structures”; operated in a  
5 manner that gives “no outward appearances of a business” and not “increase vehicular  
6 traffic.”

7 The Declaration imposes other restrictions on BRF owners. Construction on their  
8 lots must “be in full compliance with all county building and zoning codes.” Art. II,  
9 Sections 1 and 2.

10 The Declaration’s intent in enacting its restrictions is to preserve the residential  
11 nature of BRF and its “rural character”. Declaration, Art. II, Section 4. The  
12 Declaration’s restrictions regarding commercial use of the BRF airstrip and in-home  
13 businesses illustrate this intent.

14 As described below, the Masons have violated the restrictions cited above. The  
15 Board is the only entity that can enforce these restrictions. BRF Association Bylaws, Art.  
16 VI, § 14 states that the “primary duties of the Board of Directors shall be to enforce the  
17 Declaration.”

18 **B. How MWWA Operates violates the Declaration.**

19 *1. The Masons have used “the airstrip for commercial purposes” prohibited by*  
20 *the Declaration, Art. III, Section 2(d).*

21 MWWA provides wing-walking services to paying customers. Wing-walking is  
22 an activity that requires a bi-plane, with an upper and lower wing. Wing-walkers climb  
23 from the cockpit of this plane to stand on either wing, or both wings. They are harnessed  
24 in some way. While standing on the wing, the pilot performs a series of acrobatics,  
25 loops, and rolls to provide an experience to the wing walker “that can’t be matched  
26 anywhere.” Amended Complaint, Exhibit B contains photographs from the MWWA  
27

1 website showing MWWA wing-walkers in flight. See also  
2 <https://masonwingwalking.com/>

3 There can be no dispute that the Masons have used the BRF airstrip in the past for  
4 MWWA operations. Long Decl. ¶5; Declaration of David Woodcock in Support of  
5 Motion for Summary Judgment (“Woodcock Decl.”)¶ 4; Declaration of Andrew  
6 Zacharias in Support of Motion for Summary Judgment (“Zacharias Decl.”) ¶ 5. They  
7 have tried to avoid the restrictions in the Declaration against use of the BRF airstrip for  
8 “commercial” purposes by claiming that the MWWA flights are “free” and hence not  
9 “commercial”. This claim is bogus. According to the Amended Complaint, Exhibit B,  
10 MWWA charges \$750 to ride the upper wing and \$985 for the “full course, upper and  
11 lower wing.” Exhibit B states that the “tuition fee covers training plus video and  
12 pictures. We are proud to offer our students their first wing walking flight *free of charge*  
13 at the completion of the training course”. (Emphasis supplied) Exhibit B continues “The  
14 wing walking is a **full day deal**, show up first thing in the morning and spend typically 4-  
15 5 hours practicing and being coached on climbing around the exterior of the Stearman  
16 with a safety harness & cable. When you have that down, **we fly!**” (Emphasis supplied)  
17 Clearly, when using the BRF airstrip, the MWWA offered a package to its customers that  
18 cannot be separated into “paying” and “free” components. Would anyone pay only for  
19 wing-walking lessons without going on a flight to wing-walk? Of course not. In the rare  
20 instance when a customer refused the flight the customer received a refund. Woodcock Decl.  
21 ¶ 4. Customers pay compensation to become passengers in the MWWA biplanes for the sole  
22 purpose of wing-walking during a flight. These flights are part of the MWWA sales packages  
23 which provides revenues for the Masons from MWWA and hence have always been  
24 “commercial”<sup>3</sup>.

25 \_\_\_\_\_  
26 <sup>3</sup> The word “commercial” is a common term and its meaning can be found in a dictionary. *A.W.R. Constr., Inc. v.*  
27 *Dep’t of Labor & Industries*, 152 Wn. App. 479,490, 217 P. 3d 349 (2009) According to the Britannica  
Dictionary “Commercial” means “related to or used in the buying and selling of goods and services”  
<https://www.britannica.com/dictionary/commercial>

1           Within the past year Mike Mason told Board members Mark Long and Drew  
2 Zacharias that he had conducted over 560 flights for MWWA in 2021. Zacharias Decl. ¶8;  
3 Long Decl. ¶ 8. Multiplying the number of flights times \$750 and \$985 shows that the  
4 Masons have generated several hundreds of thousands of dollars for themselves by the flights  
5 offered as part of the MWWA package.<sup>4</sup> Thus, there can be no dispute that the Masons’ past  
6 use of the BRF airstrip for MWWA operations was for a commercial purpose and violated the  
7 Declaration with each MWWA flight. The Masons must be held accountable for these past  
8 violations and prohibited from future use of the BRF airstrip for MWWA.

9           The Board concluded in January of 2022 that it needed to enforce the Declaration’s  
10 prohibition on the Masons’ use of the BRF airstrip for commercial purposes. Board chair  
11 Long sent Mike Mason a letter on January 23, 2022, that stated “The Board of Directors has  
12 determined that the flight operations of the Mason Wing Walking Academy are a commercial  
13 activity which is not allowed by the CC&Rs of Blue Ribbons Farms. Please refrain from  
14 using the airfield for these operations.” Long Decl. Ex. A. Mike Mason did not stop using the  
15 BRF airfield after receiving this letter. *Id.* ¶ 12. The Board then sent a formal “cease and  
16 desist” letter from its attorney to the Masons on March 7, 2022, repeating the demand to cease  
17 using the BRF airstrip for MWWA operations. Endejan Decl. Ex.B. On March 30, 2022, the  
18 Masons wrote the Board, “As previously stated to the Board and additionally to the chairman,  
19 since the time of the first letter, we have voluntarily suspended nonfamily and friend wing  
20 walking flights form use of the BRF air strip and will continue to do so until authorized  
21 otherwise.” Long Decl. Ex. B.

22           The Masons’ letter contradicts the letter sent by their attorney in response to the  
23 March 7, 2022, letter: “[T]he demands of the Association will not be met. The Masons will  
24 continue to use the BRF airstrip as they have, and others have, for the last 18 years.” Endejan  
25 Decl. Ex. C.

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26  
27           <sup>4</sup> The Masons reported \$391,517 in gross profits from MWWA for tax year 2021. Endejan Decl. ¶ 9.

1 The Masons did move the flight portions of the MWWA package to a different airfield  
2 in late March 2022, but they will not sign an agreement, as proposed by the Board, to not use  
3 the BRF airstrip for MWWA or other commercial operations in the future. Long Decl. ¶18.

4 Instead, they only provided another terse statement to the Board on May 25, 2020:  
5 “I, Mike Mason have not been using the BRF airstrip for commercial purposes and will  
6 continue to not use the BRF for commercial purposes.” Long Decl. Ex. C. This recent  
7 communication and cessation of use of the BRF airstrip for MWWA flights concedes that  
8 the Masons **have used the BRF airstrip for commercial purposes** for the past several  
9 years. There is no disputed question of fact that the Masons have used the BRF for their  
10 MWWA commercial operation in violation of the Declaration, Art. III, Section 2(d).

11 This Court should declare that the Masons have violated Declaration, Art. III,  
12 Section 2(d). The short, unenforceable representations by Mike Mason that he will no  
13 longer use the BRF airstrip does not moot past violations or provide the remedy that the  
14 BRF Association and the Board seek, and need, to protect against future violations, which  
15 are likely to occur without either an enforceable agreement or court order. In his first  
16 statement Mike Mason said that he would “suspend” the MWWA from using the BRF  
17 airport “until authorized otherwise.” This suggests he intends to find a way to resume  
18 operations at the BRF airstrip. His second statement does not even refer to MWWA,  
19 simply “commercial purposes”. Given that Mike Mason has made misrepresentations in  
20 the past, as discussed above, there is no reason to believe that he will not resume using  
21 the BRF airfield for commercial purposes. Only a court order can proclaim that the  
22 Masons are not so authorized and provide the needed prohibition from using the BRF  
23 airstrip in the future for MWAA activity, which is the consequence of their violations.

24 2. *The Mason’s Operation of MWAA Violates FAA Regulations and thus the*  
25 *Declaration.*

26 To use the BRF airstrip, all airplane operators must comply with FAA regulations.  
27 Declaration, Art. III, Sections 1, 2(b) and 6(a). MWWA’s compliance with FAA regulations

1 was questioned at a “Pilot’s meeting” in January 2022, at the hangar of Mark Long, the Board  
2 president. Woodcock Decl. ¶¶ 6-7. As a result, Board members Gunar Clem and David  
3 Woodcock wrote a letter to the FAA asking if the MWAA was a “commercial aviation  
4 business” and whether its operation is approved by the FAA. *Id.*, Ex. A. The response to Mr.  
5 Woodcock and Mr. Clem was that the FAA does not approve of wing walking and that  
6 commercial flights require a Letter of Authorization (“LOA”) from the FAA pursuant to 14  
7 C.F.R. § 91.147. *Id.* ¶ 7. This rule applies to “passenger carrying flights for compensation or  
8 hire”, requires FAA oversight, a LOA, strict record keeping and implementation of a drug and  
9 alcohol testing program. *Id.* ¶ 4.

10 As discussed in the preceding section, the Masons have contended that the MWWA  
11 flights are “free” and hence not “commercial” for purposes of avoiding the restrictions in 14  
12 C.F.R. § 91.147 and the Declaration against use of the BRF airstrip for “commercial”  
13 purposes. This is not true—the flights for MWWA customers are commercial in nature  
14 because the Masons receive significant compensation for the provision of wing walking  
15 services that include the provision of a flight. When asked in discovery to describe how  
16 MWWA complies with FAA regulations Mike Mason said that he complies “via his  
17 commercial airman’s certificate, by keeping a current medical, Current Biennial Flight  
18 review, a current Certified Flight Instructor Certificate, and an airworthy aircraft.” Endejan  
19 Decl. Ex. E. Neither Mike Mason, nor MWWA, has the required LOA.

20 While no explicit federal regulation states “thou shall not operate a plane to offer  
21 wing-walking for a fee,” federal rules do regulate flights for compensation (14 C.F.R. §  
22 91.147) and ban the careless or reckless operation of an aircraft (14 C.F.R § 91.14 ). The use  
23 of an airplane for wing-walking arguably violates the latter rule, given the self-evident risks in  
24 wing-walking.<sup>5</sup> Several facts support this conclusion. First, the FAA told Mr. Hancock and  
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26 <sup>5</sup> Wing-walking is included within the list in the article “Extreme Sports That Can Kill You” along  
27 with “free soloing”, “highliners” and “bull riding.” <https://www.theactivetimes.com/adventure/15-extreme-sports-can-kill-you>

1 Mr. Clem that it does not approve of commercial wing-walking operations. Second, MWWA  
2 appears to be the only business to offer wing-walking in the country. Endejan Decl. Ex. A.  
3 If this business is both lucrative and risk-free, more wing-walking schools and flights would  
4 certainly exist. Third, the fact that the Masons cannot get liability insurance to cover  
5 MWWA's business demonstrates the riskiness of their operation. The Masons had assured  
6 the Board in the past that they had proper insurance for MWWA which named the  
7 Association as an additional insured. This is not true. The Mason's attorney admitted that  
8 they have no such insurance and cannot get it. Endejan Decl. Ex. D.

9 The Board made inquiries and learned independently that MWWA could not get  
10 liability insurance. Zacharias Decl. ¶ 11. Members of BRF pointed out to the Board that  
11 MWWA's lack of insurance coverage could expose BRF residents to litigation for any  
12 injuries, damages or deaths due to wing-walking through MWWA. Long Decl. ¶ 17. This  
13 increased liability exposure, which the Board did not know about until this year, heightened  
14 the need to enforce the Declaration to stop the non-compliant MWWA operations conducted  
15 by the Masons.

16 3. *The Masons Operate a Home Business Enterprise MWWA p in Violation of the*  
17 *Declaration*

18 Because BRF is intended to be a **residential** community. The Declaration places  
19 restrictions on operating "home business enterprises" in Art. V. Section 6. These must be  
20 carried on "entirely within the lot owners residential type structures"; operated in a  
21 manner that gives "no outward appearances of a business" and not "increase vehicular  
22 traffic." In short, BRF residents are not to be impacted, visually or orally from sideline  
23 business activities because they are to be confined to the homes of BRF residents.

24 The Masons run MWWA outside of their residence. According to the MWWA  
25 website the Masons' home address of 61 Greywolf Air Ct. is listed as the location for  
26 MWWA wing-walking training. However, the Masons do not operate MWWA within  
27 their residential structure, but outside of it in a way that indicates it is a business, which

1 increases vehicular traffic. As the photos attached to the Zacharia declaration show, the  
2 wing-walking training is conducted entirely outside of the Masons’ residence, either  
3 inside a hangar or outside in a plane on the parking lot.

4 The Masons’ next door neighbor reports that Mike Mason uses a shared taxiway  
5 to conduct wing walking lessons that prevents others from using it to access the airstrip;  
6 that these lessons occur almost daily and involve continuous traffic; that up to eight cars  
7 are parked by wing-walking customers outside ; that these customers increase traffic that  
8 causes potholes and damage to the driveway shared and that wing-walking customers can  
9 look into this neighbor’s kitchen while taking lessons on a MWWA bi-plane, invading  
10 her privacy. Declaration of Nancy Powell in Support of Motion for Summary Judgment  
11 (“Powell Decl.”). The photos attached to the Zacharias declaration substantiate that the  
12 MWWA school grounds frequently looks like a parking lot.

13 The Masons cannot deny that they run their MWWA wing-walking business  
14 outside of their residence; that MWWA’s highly visible outside training “gives the  
15 outward appearance of a business” and that it causes increased vehicular traffic. Thus,  
16 they violate the Declaration Art. V. Section 6.

17 This Court should enter an order enjoining the Masons from operating their  
18 business enterprise within BRF. The Masons’ can continue to operate their business, just  
19 not within BRF, or they must find a way to comply with the restrictions in the  
20 Declaration.

21 4. Mike Mason Has Taken Serious Adverse Action Against the Board.

22 The Masons refuse to accept their obligations under the Declaration, which are  
23 intended to benefit all residents in BRF—not just the Masons. In early 2022 when the  
24 Board learned the real facts surrounding how MWWA had been, and was continuing to  
25 be, operated the Board sought legal advice on options for enforcing the Declaration.  
26 Long Decl. ¶ 13. The Board properly convened an executive session in February 2022  
27

1 for the purpose of discussing those options. *Id.* Marilyn Mason is a member of the  
2 Board, and she was asked to recuse herself from discussions about, and decisions  
3 regarding her business, MWWA, due to her obvious conflict of interest. She refused and  
4 another Board member had to make a motion for her recusal, which passed, and Ms.  
5 Mason ultimately left the meeting. *Id.*

6 This litigation was commenced as a last effort after the Board offered options to  
7 the Masons, which were rejected. *Id.* ¶19.

8 Since then, Mike Mason has aggressively opposed the Board’s action, which he  
9 perceives as some sort of vindictive threat to him and his family, rather than necessary  
10 Board action to enforce the Declaration to protect BRF residents from potential liability  
11 due to the Masons’ business and the disruptive impact of this business on the BRF  
12 community. On July 26, 2022, Mike Mason sent a letter to Association members  
13 accusing the Board of “deceit,” “sleazy tactics,” and being a “rogue board” in bringing  
14 this litigation. Long Decl. Ex. D. Board Chair Long responded to this letter, Long Decl.  
15 Ex. E. He rebutted the factual errors in Mike Mason’s letter and explained the Board  
16 action in bringing this litigation.

17 On August 5, 2022, the Board held a meeting, attended by Mike and Marilyn  
18 Mason. Marilyn Mason made a motion to drop the lawsuit against her and her husband.  
19 It did not pass. The Board chair’s rebuttal letter was read. Mike Mason erupted in anger  
20 and became very agitated. Long Decl. ¶ 22. He pointed at the two female Board members  
21 and loudly said “I hate you two” and then continued “and the four that voted against me.”  
22 He continued his tirade saying that “considering that money has been stolen from my  
23 family, when people get mugged, people get violent.” Declaration of Keri Mc Intyre in  
24 Support of Motion for Summary Judgment. Ms. McIntyre feared for her physical safety  
25 and felt personally threatened by Mike Mason. *Id.* ¶ 7.

1 Mike Mason's conduct towards the Board has upset its members and caused  
2 concern that he will take further, perhaps physical, retribution against them. Therefore,  
3 in issuing the Order requested by the Board, on behalf of the Association, the Board  
4 requests that it enjoin any retribution from Mason against any Board or Association  
5 member for prevailing in this action.

### 6 III. LEGAL ARGUMENT

#### 7 **A. The Plaintiff is Entitled to Summary Judgment Because There Is No Genuine Issue** 8 **of Material Fact.**

9 A summary judgment should be granted if the pleadings and affidavits show there is  
10 no genuine issue as to any material fact and the moving party is entitled to judgment as a  
11 matter of law. *Meaney v. Dodd*, 111 Wn.2d 174, 177-78, 759 P.2d 455 (1988); *Reese v.*  
12 *Sears, Roebuck & [\*\*107] Co.*, 107 Wn.2d 563, 567, 731 P.2d 497 (1987), *overruled on other*  
13 *grounds in Phillips v. Seattle*, 111 Wn.2d 903, 766 P.2d 1099 (1989).

14 The Masons cannot dispute the fact that they have used the BRF airstrip for  
15 commercial purposes for MWWA as discussed in Sec. II. B. 1. in the past for the purpose of  
16 providing commercial services to paying customers who have purchased wing-walking  
17 training and a wing-walking flight from MWWA. Mike Mason has admitted as such in his  
18 May 25, 2022, statement that he provided to Mark Long. Long Decl. Ex. C. The Long,  
19 Zacharias, Woodcock and Powell declarations all attest to their personal observations of  
20 MWWA flights using the BRF airstrip.

21 The Masons cannot dispute that they have conducted the MWWA without the proper  
22 authorization from the FAA, as discussed in Sec. II. B. 2. because they do not have a LOA.  
23 This violates their obligation to use the BRF airstrip only in compliance with FAA rules and  
24 regulations in the Declaration.

25 The Masons also cannot dispute that they operate MWWA **outside of the Masons**  
26 residence in a hangar on their property, which shows that the MWWA's business activities are  
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1 clearly visible to the public and that MWWA’s business enterprise has increased vehicular  
2 traffic beyond that which is normal for residential use. *See* Sec. II. B. 3. and Zacharias Decl.

3 The Declaration imposes other restriction on BRF owners. Construction on their  
4 lots must “be in full compliance with all county building and zoning codes.” Art. II,  
5 Sections 1 and 2. Under Sections 33.10.040, 33.47.010(5) and 33.47.020(3) of the  
6 Clallam County zoning code the Masons are required to obtain a permit for a home-based  
7 business, such as MWAA, because the BRF subdivision is covered by rural zoning  
8 requirements. The Masons have also provided no evidence of compliance with the Clallam  
9 County Code in discovery, which has different requirements for “home-based industries” and  
10 “home enterprises.” The former, defined in Clallam County Code § 33.03.010 (44) to mean a  
11 “revenue generating enterprise which is located on a residential parcel, and which generates  
12 or involves **outdoor activity and/or outdoor storage of equipment or supplies,**” directly  
13 applies to the MWWA. Such a home-based industry requires a permit after public notice and  
14 comment.

15 Because there is no disputed factual issue as to any of the Declaration violations, this  
16 court should declare that the Masons’ operation of the MWWA has violated the Declaration  
17 Art. II, Sections 1 and 2; Art. III Sections 1, 2(b), 2(d), 6(a) and art. V. Section 6.

18 **B. The Plaintiff is Entitled to a Permanent Injunction Against the Masons’ Operation of**  
19 **the MWWA in BRF as a Matter of Law.**

20 The interpretation of a restrictive covenant is a question of law. *Wimberly v.*  
21 *Caravello*, 136 Wn. App. 327, 336, 149 P.3d 402 (2006). Restrictive covenants are  
22 interpreted to give effect to the intention of the parties to the agreement incorporating the  
23 covenants and to carry out the purpose for which the covenants were created. *Riss v. Angel*,  
24 131 Wn.2d 612, 621, 934 P.2d 669 (1997). “The purpose of those establishing the covenants  
25 is the relevant intent. Subdivision covenants tend to enhance the efficient use of land and its  
26 value. The value of maintaining the character of the neighborhood in which the burdened  
27 land is located is a value shared by the owners of the other properties burdened by the same

1 covenants.” *Green v. Normandy Park Riviera Section Cmty. Club, Inc.*, 137 Wn. App. 665,  
2 683, 151 P.3d 1038 (2007) (citation omitted) (citing *Riss*, 131 Wn.2d at 621-24). Courts  
3 place “special emphasis on arriving at an interpretation that protects the homeowners’  
4 collective interests.” *Lakes at Mercer Island Homeowners Ass’n v. Witrak*, 61 Wn. App. 177,  
5 181, 810 P.2d 27 (1991). “[I]f more than one reasonable interpretation of the covenants is  
6 possible regarding an issue, we must favor that interpretation which avoids frustrating the  
7 reasonable expectations of those affected by the covenants’ provisions.” *Green*, 137 Wn.  
8 App. at 683.

9         In determining the intent of the parties to the agreement incorporating the covenants,  
10 courts give “covenant language ‘its ordinary and common use’ and will not construe a term in  
11 such a way ‘so as to defeat its plain and obvious meaning.’” *Wilkinson v. Chiwawa Cmty.*  
12 *Ass’n*, 180 Wn.2d 241, 250, 327 P.3d 614 (2014) (quoting *Mains Farm Homeowners Ass’n v.*  
13 *Worthington*, 121 Wn.2d 810, 816, 854 P.2d 1072 (1993); *Riss*, 131 Wn.2d at 623). Courts  
14 examine the instrument in its entirety and use extrinsic evidence to “illuminate what was  
15 written, not what was intended to be written.” *Wilkinson*, 180 Wn.2d at 250-51 (quoting  
16 *Hollis v. Garwall, Inc.*, 137 Wn.2d 683, 697, 974 P.2d 836 (1999)).

17         Applying the foregoing principles, the Declaration is unambiguous with respect to its  
18 overall purpose of maintaining a residential community and restricting commercial activity.  
19 Examined in its entirety the Declaration is intended to maintain BRF’s single family  
20 residential character (Art. II, Sec. 2) by limiting use of the BRD airstrip to noncommercial  
21 uses (Art. III, Sec 2(d) and restricting home businesses to within “the lot owners **residential**  
22 **type structures**.” (Art. V, Sec. 6.) Any business activity must be limited, the Declaration  
23 states, in discussing **residential** architectural limitations, “to preserve the natural beauty of the  
24 landscape and the rural character of the area and promote visual harmony.” (Art. II, Sec. 4.)

25         The Masons clearly violated the provisions against commercial use of the airstrip and  
26 continue to violate the business limitations that are intended to keep the subdivision  
27

1 residential, without the type of disruptive activities that MWWA causes. The collective  
2 community is harmed by MWWA's operation, as evidenced by the many complaints from  
3 within and without BRF. Long Decl. Ex. F. The Plaintiff is entitled to an injunction, as the  
4 only viable remedy to stop the Masons from operating MWWA within BRF.

5 The Supreme Court established the criterion for injunctive relief in *Tyler Pipe Indus.*  
6 *V. State*, 96 Wn. 2d 785,792, 638 P.2d 1213 (1982):

7  
8 It is an established rule in this jurisdiction that one who seeks relief by  
9 temporary or permanent injunction must show (1) that he has a clear legal or  
10 equitable right, (2) that he has a well-grounded fear of immediate invasion of  
11 that right, and (3) that the acts complained of are either resulting in or will  
12 result in actual and substantial injury to him.

13 Here, this criterion has been met. First, caselaw is well settled that the Plaintiff has a  
14 clear equitable right to enforce the Declaration through an injunction to preserve the  
15 residential character of BRF and to protect BRF Association members from the potential  
16 liability and continued disruption of MWWA. Property owners have a right in equity to  
17 enforce restrictive covenants. *See, e.g., Mains Farm Homeowners Ass'n v. Worthington*, 121  
18 Wn.2d 810, 815, 854 P.2d 1072 (1993); *Ronberg v. Smith*, 132 Wash. 345, 349, 232 P. 283  
19 (1925). Restrictive covenants are designed to make residential subdivisions more attractive  
20 for residential purposes and are enforceable by injunctive relief. *Metzner v. Wojdyla*, 125  
21 Wn.2d 445, 450, 886 P. 2d 154 (1994). In *Metzner*, the Supreme Court enjoined the ongoing  
22 operation of a licensed child day care facility in a residence in a subdivision because it  
23 violated a restrictive covenant which provides that the "property shall be used for residential  
24 purposes only." *Id.* at pp.453-54. *Accord, Hagemann v. Worth*, 56 Wn. App. 85, 782 P. 2d  
25 1072 (1989)(permanent injunction issued against homeowners who were running a business  
26 providing care to the elderly in their residence); *Mains Farm Homeowners Ass'n* , *supra*,  
27 (permanent injunction against operating a private adult care facility). Restrictive covenants  
are enforced, even if it would require the offending party to dismantle construction. *Wimberly*  
*v. Caravello*, 136 Wn. App. 327, 332, 149 P. 3d 401 (2006) (construction of a three-story

1 garage enjoined based on a restrictive covenant even though the garage was substantially  
2 completed.)

3 Second, the BOD has a well-founded belief that the Masons will continue to violate  
4 the Declaration because they have strongly resisted moving the MWWA from outside the  
5 Masons' residence to a place outside of BRF, as demonstrated by Mike Mason's angry  
6 statements at the August 5, 2022, BOD meeting and the letter he distributed. Long Decl. D.  
7 Keri, Decl. The Board tried to negotiate a way for the Masons to operate MWWA within  
8 BRF, but the Masons have refused.

9 Third, the Plaintiff need not show substantial damage from the violations to obtain  
10 injunctive relief to enforce a restrictive covenant. *Hagemann*, 56 Wn. App. at 87; *Metzner*,  
11 125 Wn.2d at 450 (no showing of substantial damage from the violation of a restrictive  
12 covenant need be shown to enjoin a violation).

13 Under *Hollis v. Garwall*, 137 Wn. 2d 683, 700, 974 P. 2d 836 (1999), and the facts of  
14 this case, the Masons are not entitled to the benefit of the doctrine of balancing the equities,  
15 or relative hardships, when considering an injunction. In *Hollis*, the Supreme Court approved  
16 the issuance of an injunction to enforce restrictive covenants that banned commercial or  
17 business activities to stop a mining and rock crushing operation. The Supreme Court said  
18 such balancing is reserved for the innocent defendant who proceeds without knowledge or  
19 warning that his activity encroaches upon another's property rights:

20 In this case, the Plaintiffs had informed Garwall of the restriction on the use of  
21 the land. With this information, and knowing that Plaintiffs objected to its  
22 activities, Garwall proceeded with its mining and rock crushing operation.  
23 Garwall was not without knowledge or warning that its activities encroached  
24 on the rights of others. Garwall is not entitled to a balancing of equities prior  
25 to the imposition of an injunction. *Id.*

26 The Masons knew about and are obligated to comply with the restrictions in the Declaration,  
27 which run with the land. *See* Declaration Art. VI, Section 3(a). As discussed above, they have  
not done so. Mike Mason provided false information to BRF Boards in place prior to the  
current Board. Long. Decl. ¶¶ 6,7. They misrepresented the nature of their business as

1 “noncommercial”. They lied about insurance coverage for MWAA’s activities. They lied  
2 about compliance with FAA rules and regulations. They have increased their business  
3 significantly since MWAA’s early days with two planes operating, instead of just one. The  
4 MWAA activity clearly disturbs the peace and privacy of BRF residents, for their own  
5 financial gain. The Masons have abused the Board that is only seeking to act for the benefit  
6 of the entire BRF community. They are not entitled to any balancing of the equities

7 Finally, operating the MWWA business is not in the public interest, but only for the  
8 financial benefit to the Masons, at the expense of the other BRF residents. MWWA provides  
9 an ultrahazardous activity, not sanctioned by the FAA, or covered by any insurance, to  
10 persons seeking only thrills and excitement whose possible injury or death could expose BRF  
11 residents to liability. This business does not belong in BRF.

#### 12 **C. The BRF Association is Entitled to Recovery of Attorneys’ Fees.**

13 The BOD was forced to bring this litigation and is the prevailing party. The  
14 Declaration, Art. VI. Sec. 3(e) states: “In any action brought by the Association against any  
15 lot owner to enforce any term, condition or covenant herein contained, the prevailing party  
16 shall be entitled to recover, in addition to costs, a reasonable sum fixed by the court as and for  
17 attorney’s fees.”

18 RCW 7.24.100, .740, and 64.38.050 also authorize an award of attorney’s fees.

#### 19 **IV. CONCLUSION**

20 The Plaintiff’s motion should be granted, and an injunction issued to stop the Masons  
21 from operating a business within BRF that is noisy, disruptive, traffic-inducing and  
22 downright dangerous to the residents of BRF. The Masons’ actions show that they think that  
23 the restrictions that apply to every resident in BRF on how to conduct a home business or use  
24 the BRF airstrip do not apply to them. The Masons need to abide by the clear, unambiguous  
25 language of the Declaration that limits how they have operated and continue to operate  
26 MWWA. Only this Court can bring about this necessary result.

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DATED August 25, 2022.

Respectfully submitted,

ENDEJAN LAW LLC

s/Judith A. Endejan  
Judith A Endejan, WSBA #11016  
5109 23rd Avenue West  
Everett, WA. 98203  
Ph: 206-799-4843  
Email: jendejan@gmail.com

*Attorney for Plaintiff*

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

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") and a permanent injunction enjoining the Defendants from further violations.

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.

[PROPOSED]ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

1 4. Declaration of David Woodcock in Support of Motion for Summary Judgment.

2 5. Declaration of Keri McIntyre in Support of Motion for Summary Judgment.

3 6. Declaration of Nancy Powell in Support of Motion for Summary Judgment.

4 7. Declaration of Judith A. Endejan in Support of Motion for Summary  
5 Judgment.

6 8. \_\_\_\_\_

7 9. \_\_\_\_\_

8 10. \_\_\_\_\_

9 11. \_\_\_\_\_

10 12. The files and records herein.

11 THE COURT NOW FINDS that

12 1. There is no dispute of material fact that the Masons have violated the Declaration,  
13 Art. Sections 1 and 2; Art. III, Sections 1, 2(b), 2(d) 6(a) and Art. V, Section 6 by their  
14 actions in operating their business, Mason Wing Walking Academy (“MWWA”), within BRF  
15 and these violations are material to the overall purpose of the Declaration.

16 2. The Plaintiff is entitled to judgment as a matter of law having established that it has  
17 a clear legal or equitable right to enforce the Declaration; that the Plaintiff has established a  
18 well-grounded fear of continued, immediate invasion of that right and that the Plaintiff has  
19 established the requisite level of actual or substantial injury.

20 NOW THEREFORE THE COURT ORDERS:

21 A. The Masons are permanently enjoined from using the BRF airstrip for the  
22 purpose of operating flights for the MWWA or any other commercial business or conducting  
23 other MWWA business activity outside the confines of their residential structure. The  
24 Masons are ordered to comply with the Declaration Art. 6(a).



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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

DECLARATION OF JUDITH A. ENDEJAN IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

JUDITH A. ENDEJAN declares:

1. I am over the age of 18 years and have personal knowledge of the facts stated in this declaration and if called on to testify I would competently testify as to the matters stated herein.
2. I am an attorney with Endejan Law, LLC, 5109 23<sup>rd</sup> Ave. West, Everett, WA 98203, and I represent the Plaintiff the Blue Ribbons Farms Property Owners Association ("BRF") in this case.
3. Attached hereto as Exhibit A are the first three pages from an article entitled "Everything You Need to Know About Wing-Walking" that I downloaded on August

DECLARATION OF JUDITH A. ENDEJAN IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

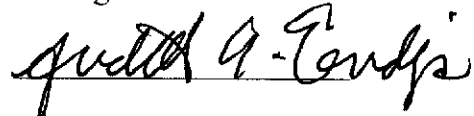
*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

1 23, 2022 from [https://whereandwander.com/everything-you-need-to-know-about-](https://whereandwander.com/everything-you-need-to-know-about-wing-walking-for-the-first-time/)  
2 [wing-walking-for-the-first-time/](https://whereandwander.com/everything-you-need-to-know-about-wing-walking-for-the-first-time/). This claims that the Mason Wing Walking  
3 Academy("MWWA"), is the only place in the United Sates where you can learn to  
4 wing walk publicly.

- 5 4. Attached as Exhibit B is a letter that I wrote, dated Match 7, 2022, and sent to the  
6 Masons requesting that they cease and desist from using the BRF airstrip for  
7 MWWA.
- 8 5. Attached as Exhibit C is a letter that I received from the Brandt Law Group,  
9 retained by the Masons. It states that "The Masons will continue to use the BRF  
10 airstrip as they have, and others have, for the last 18 years."
- 11 6. Attached as Exhibit D is an email that I received on April 14, 2022, from the  
12 Defendants' attorney stating that Mike Mason told him that the wing walking  
13 business does not have insurance as it is unavailable.
- 14 7. I personally reviewed the Defendants responses to the Plaintiff's First Set of  
15 Requests for Production ("RFP"). The Defendants included in those RFP  
16 responses the Masons' copy of Declaration of Covenants, Conditions and  
17 Restrictions that apply to the BRF subdivision. ("Declaration"), Attachment A to  
18 the Amended Complaint.
- 19 8. Attached hereto as Exhibit E is the Defendants' response to Plaintiff's  
20 Interrogatory No. 13 asking the Defendants to describe how MWWA complies  
21 with FAA regulations.
- 22 9. On August 24, 2022, I reviewed a copy of the Masons' 1040 US Tax Return for  
23 2021 produced in response to a subpoena of MWWA documents. This return  
24 reported that West Coast Spin Doctors reported \$391,517 in gross profits for  
25 2021.

1 I verify under penalty of perjury under the laws of the State of Washington that the  
2 foregoing statements are true and correct,

3  
4 Executed this 24<sup>th</sup> day of August 2022 at Everett, Washington.

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6 Judith A. Endejan

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DECLARATION OF JUDITH A. ENDEJAN IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

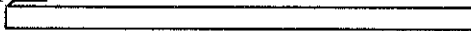
# EXHIBIT A



Walking On The Wings Of A Plane // CNN  
Travel

Ken Lam

04:51



ADVENTURES

# Everything You Need To Know About Wing

# Walking On A Plane

*Published*

SEPTEMBER 4, 2020

*By*

KIEN

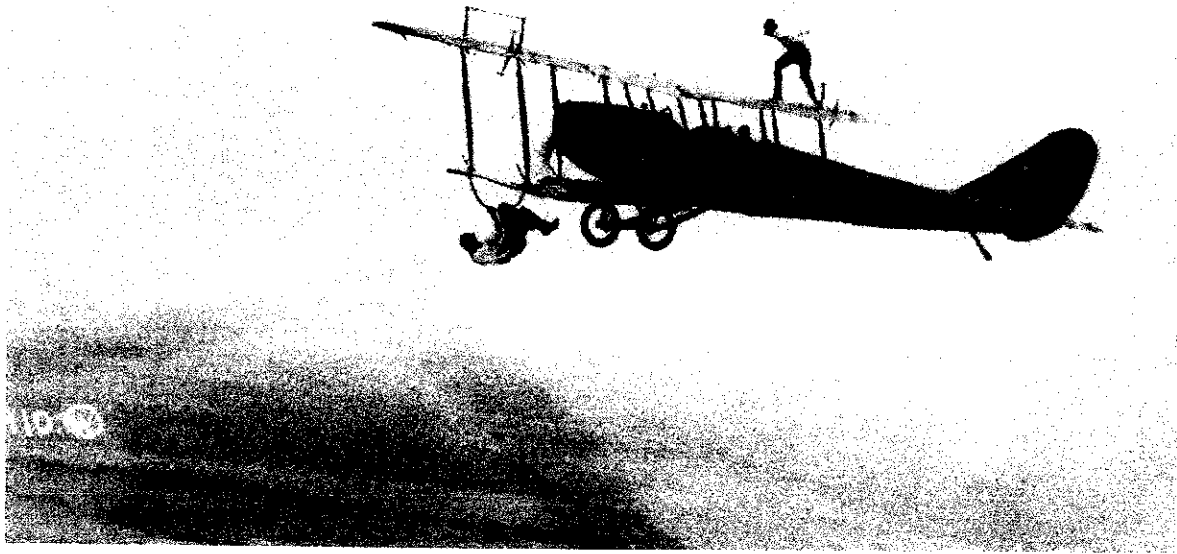
This is an accompanying piece to my story about **[That Time I Walked The Wing Of Moving Plane \(https://whereandwander.com/that-time-i-walked-on-the-wing-of-a-moving-plane/\)](https://whereandwander.com/that-time-i-walked-on-the-wing-of-a-moving-plane/)**. It provides a deeper look into the training sequence involved to get

started with wing walking at the **[Mason Wing Walking Academy \(http://masonwingwalking.com/\)](http://masonwingwalking.com/)** in Sequim, Washington. If you haven't already, read that first to get my take on the whole and come back here for all the more in-depth details.

## Walking On A Plane

Not long after the Wright Brothers invented the airplane did the entrepreneurial minds of the time began concocting up plans to entertain the masses while promoting flying and airplanes in general. Daring pilots began performing aerial stunts across the countries, one-upping each other, for fame and a bit of fortune. Eventually, it got to the point where the stunts involved the pilot themselves and not just the plane.

The story goes that a U.S. Army Air Service pilot named Ormer Locklear would walk onto the wings of his plane during training to fix mechanical issues mid-air without having to land. He would later go on to be one of the first daredevil to perform stunts to the public as part of the "barnstorming" aerial show movement of the 1920s. He would also eventually meet his end during a wing walking stunt.



From a practical standpoint, wing walkers were also used to perform mid-air refueling for the U.S. Air Corps, walking with a fuel pack from one plane to another to refuel and allow for longer distance flights. And then it was mostly forgotten about by the public. In 2020, there's a small, but dedicated global community who still perform the walks. Most of them doing it privately, but there are a few places where someone like me, or you, can go and experience wing walking for themselves.

## **Where To Go Wing Walking In The US**

As far as I know, the only place where you can learn to wing walk publicly in the United States is at the Mason Wing Walking Academy in Sequim, WA. This is where I went and it's actually the only place in the world where you can just show up and learn to do a full proper wing walk. I say full and proper because you do have a couple of other options if you happen to be in the United Kingdom.

## **Where To Go Wing Walking In The UK**

# EXHIBIT B

# Endejan Law, LLC

Content & Communications Law  
jendejan@gmail.com

5109 23rd Avenue West  
Everett, WA. 98203

206-799-4843

Michael and Marilyn Mason  
64 Greywolf Air Ct.  
Sequim, WA. 98382

March 7, 2022

Sent via: USMAIL: RETURN RECEIPT REQUESTED

**Re: Cease and Desist use of Blue Ribbons Farm Airstrip**

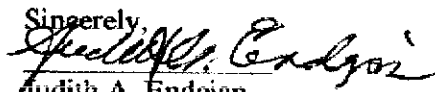
Dear Mr. and Mrs. Mason:

We represent the Blue Ribbons Farm Property Owners Association, Inc. ("BRF") Board of Directors. We understand that you own and operate a wing-walking business called Mason Wing Walking Academy ("MWWA") that involves the provision of wing walking training on your planes followed by a flight after the completion of the training course for a fee of either \$750 or \$985 per person. Your business operates by using the BRF airstrip for takeoff and landing of these flights, after you provide wing walking training that occurs on your property.

As members of BRF you know that the BRF airstrip is common space located on BRF common property. Declaration of Covenants, Conditions and Restriction ("Declaration") Art. I, § 7. Each owner has the nonexclusive right to use the Airstrip subject to certain restrictions. The Declaration, Art. III, § 2 (b) and (d) declares that "[a]ll flight operations from and to the airstrip will be conducted under F.A.A. rules and regulations" and "[t]he use of the airstrip for commercial purposes is prohibited". In addition, the Declaration, Art. V. § 6 requires a home business enterprise to be "carried on entirely within the lot owners residential type structures."

The BRF Board of Directors is required to enforce the Declaration by its Bylaws, Art. VI, §14. We are writing to request that you cease and desist from using the BRF airstrip for part of the MWWA operation, or for any other flight activities that generates revenue for you. These are commercial purposes prohibited by the Declaration, Art. III, § 2 (d). We understand that you made a verbal representation that you have moved the portion of your MWWA operation that requires use of the BRF airstrip to the Sequim Valley Airport during the BRF Board of Directors meeting on February 23, 2022. Please confirm this representation that you will no longer be using the BRF airstrip for your business in writing sent to the undersigned by March 17, 2022. This will remove the need for further discussion as to the other potential violations discussed above. Thank you.

Sincerely,



Judith A. Endejan  
Endejan Law, LLC

# EXHIBIT C

April 4, 2022

By First Class Mail  
and by email: [jendejan@gmail.com](mailto:jendejan@gmail.com)

Judith Endejan  
Endejan Law, LLC  
5109 23<sup>rd</sup> Avenue West  
Everett, WA 98203

RE: Mason Wing Walking Academy  
Use of Blue Ribbons Farm Airstrip

Dear Judith:

We have been retained by Michael and Marilyn Mason (the "Masons") to represent them in the above-referenced matter. We have received your March 7, 2022 letter, in which you demand that the Masons cease and desist use of the Blue Ribbons Farm Airstrip.

We have reviewed your letter, and have investigated the allegations contained therein. Based on our investigation, it is our position that the Masons do not need to cease and desist use of the Blue Ribbons Farm Airstrip ("BRF airstrip") because the Blue Ribbon Farms Property Owners Association (the "Association") has abandoned the covenant it currently seeks to enforce.

A covenant is abandoned when it is habitually and substantially violated, and nothing is done in response. *Mt. Baker Park Club, Inc. v. Colcock*, 45 Wn.2d 467, 471, 275 P.2d 733 (1954); *Mountain Park Homeowners Ass'n, Inc. v. Tydings*, 72 Wn. App. 139, 147, 864 P.2d 392, 396-97 (1993) aff'd, 125 Wn.2d 337, 883 P.2d 1383 (1994). Violations must be material to the overall purpose of the covenant. *Mountain Park*, 125 Wn.2d at 342. When a covenant has been abandoned, it will not be enforced. *Mt. Baker Park Club, Inc. v. Colcock*, 45 Wn.2d at 471 (citing *Ronberg v. Smith*, 132 Wn. 345, 232 P. 283 (1925)); see also *Tindolph v. Schoenfeld Bros., Inc.*, 157 Wn. 605, 610, 289 P. 530 (1930). In considering whether a covenant has been abandoned, a court looks at the relative number of subdivision lots or condominium units violating the covenant and the

Blue Ribbon Farms Property Owners Association  
c/o Judith Endejan  
Endejan Law, LLC  
Page 2

extent of the violations. See, e.g., *White v. Wilhelm*, 34 Wn. App. 763, 769-70, 665 P.2d 407 (1983); *Mt. Baker Park Club, Inc. v. Colcock*, 45 Wn.2d 467, 471-72, 275 P.2d 733 (1954).

Here, the Association has abandoned Article III Section 2(d) of the Declaration regarding the use of the BRF airstrip for commercial purposes because it has been habitually and substantially violated by other members of the Association. Dave Woodcock, a member of the Association, as well as the Board of Directors, has operated an aerial photography business from his residence within the Association, and, on information and belief, he uses the BRF airstrip for his business. Ken Horwitz, another member of the Association, operates a biplane ride business and, on information and belief, he uses the BRF airstrip for his business. As such, these habitual and substantial violations of Article III Section 2(d) of the Declaration constitute abandonment.

Moreover, the consensus of the Association and its members has been that the BRF airstrip may not be used for repeated and extensive purposes, such as teaching take-offs, and landings for commercial purposes. However, using the BRF airstrip to depart from and performing commercial activity elsewhere, such as aerial photography, teaching take-offs and landings at different airport, or teaching aerobatics in an offshore area and returning to BRF at the conclusion of those activities has been allowed.

Pursuant to the authority cited above, the demands of the Association will not be met. The Masons will continue to use the BRF airstrip as they have, and others have, for the last 18 years.

Sincerely,



Michael D. Brandt  
Christos Argiannis

cc: Michael and Marilyn Mason

@work/mason%20wing%20walking%20academy%20and%20desist%20response.22mar15.docx

# EXHIBIT D



Judy Endejan &lt;jendejan@gmail.com&gt;

---

**Mason Wing Walking Academy/Blue Ribbon Farms**

3 messages

**Christos Argiannis** <CArgiannis@brandtlawgroup.com>

Thu, Apr 14, 2022 at 12:29 PM

To: "jendejan@gmail.com" &lt;jendejan@gmail.com&gt;

Cc: Michael Brandt &lt;mbrandt@brandtlawgroup.com&gt;, Molly Mueller &lt;mmueller@brandtlawgroup.com&gt;

Judith,

I presented the terms we had discussed with my client. He has represented to me that he has liability insurance on his aircraft but does not have insurance for the wing walking business as it is unavailable. However, he has each customer sign the attached Assumption of Risk Agreement which is modeled after United Parachute Technology waiver.

Our client has stated that he would agree to indemnify you're the Association for any potential liability arising from the operation of his business if the Association agrees to allow him to use the BRF airstrip in the operation of his business. Please advise your client's position on this offer.

Best,

*Christos Argiannis*

Associate Attorney  
BRANDT LAW GROUP  
1200 Fifth Avenue, Suite 1950  
Seattle, WA 98101  
tel: 206/441-5739  
fax: 206/299-9115  
www.brandtlawgroup.com  
cargiannis@brandtlawgroup.com

The information contained in this e-mail and in any attached document(s) is CONFIDENTIAL and may be protected by attorney-client privilege and/or the work-product doctrine. The e-mail (and attached document(s)) is intended for use by the person(s) to whom this e-mail is addressed. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or other use of such e-mail and/or document(s) is strictly prohibited. If you have received this e-mail and/or any attached document(s) in error, please immediately notify us by telephone at (206) 441-5739.

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 **2022 waiver.docx**  
23K

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**Judy Endejan** <jendejan@gmail.com>  
To: Gunar Clem <gunarclem@gmail.com>

Thu, Apr 14, 2022 at 12:55 PM

[Quoted text hidden]

# EXHIBIT E

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6 SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM  
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8 BLUE RIBBONS FARMS PROPERTY  
9 OWNERS' ASSOCIATION, a Washington  
non-profit corporation

10 Plaintiff,

11 vs.

12 MICHAEL and MARILYN MASON, and  
13 THE MARITAL COMMUNITY  
14 COMPOSED THEREOF  
Defendants.

PLAINTIFF'S FIRST SET OF  
INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS

AND RESPONSES THERETO

15 TO: Defendants MICHAEL and MARILYN MASON, and THE MARITAL  
16 COMMUNITY COMPOSED THEREOF ("Masons" or "Defendants" or "Defendant")

17 Pursuant to Civil Procedure Rules 33 and 34, Plaintiff Blue Ribbons Farms Property  
18 Owners' Association ("BRF" or "Plaintiff") hereby serves its First Set of Interrogatories and  
19 Requests for Production to the above named Defendants. In accordance with Civil Procedure  
20 Rules 26, 33 and 34, please respond to the following Interrogatories and Requests for  
21 Production (the "Requests") separately and fully, under oath, within forty (40) days of the  
22 date of service upon you, by producing for inspection and copying the documents requested  
23 below to Plaintiff's counsel, Judith A. Endejan, Endejan Law LLC, 5109 23<sup>rd</sup> Ave. West,  
24 Everett, WA. 98203, or in electronic format to jendejan@gmail.com.

25  
26  
27 Plaintiff's First Set of Interrogatories and  
Requests for Production

- 1

Endejan Law, LLC  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

1           **INTERROGATORY NO. 12:** For each student identified as having experienced  
2 injury or accident in connection with a MWWA course or wing-walking since the  
3 Operations Date describe the nature of the injury or accident.

4           **ANSWER:** Objection, MWWA is not a party to this litigation matter and any  
5 information Plaintiff is seeking regarding the business and operations of MWWA can be  
6 sought from MWWA.

7           Subject to, and without waiving the objection:

8           See response to Interrogatory No. 11.

9  
10  
11           **INTERROGATORY NO. 13:** Describe how MWWA complies with FAA  
12 regulations.

13           **ANSWER:** Objection, MWWA is not a party to this litigation matter and any  
14 information Plaintiff is seeking regarding the business and operations of MWWA can be  
15 sought from MWWA.

16           Subject to, and without waiving the objection:

17           MWWA has no need to comply with FAA regulations. MWWA simply teaches  
18 students on the ground.

19           Mike Mason, however, complies with F.A.A. regulations via his commercial airman's  
20 certificate, by keeping a current medical, Current Biennial Flight review, a current Certified  
21 Flight Instructor Certificate, and an airworthy aircraft.

22  
23           **INTERROGATORY NO. 14:** Identify all complaints made to any Authority about  
24 MWWA over its wing-walking operations.

25           **ANSWER:** Objection, MWWA is not a party to this litigation matter and any  
26 information Plaintiff is seeking regarding the business and operations of MWWA can be  
27 sought from MWWA.

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

DECLARATION OF MARK LONG IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

MARK LONG declares:

1. I am over the age of 18 years and have personal knowledge of the facts stated in this declaration and if called on to testify I would competently testify as to the matters stated herein.
2. I am a resident of the Blue Ribbons Farms ("BRF") subdivision in Sequim, Washington and a member of the plaintiff Blue Ribbons Farms Property Owners' Association. ("Association"), which currently has 135 members. I am the current chair of the Board of Directors ("BOD") of the Association, assuming this position as of January 2022.

LONG DECLARATION IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

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Everett, WA. 98203

- 1 3. The Association owns an airstrip, which is common space located on the common  
2 property within BRF, called Parcel 39, to be used by BRF owners for purposes of  
3 takeoff and landing of aircraft for non-commercial purposes. Each owner has a  
4 non-exclusive right to use the airstrip subject to the restrictions in the Declaration  
5 of Covenants, Conditions and Restrictions that apply to the BRF subdivision.  
6 (“Declaration”), Attachment A to the Amended Complaint.
- 7 4. I have read the Declaration and am familiar with its terms. The Declaration  
8 contains restrictions that bind all members of the Association, who are the  
9 residents’ owning lots within BRF.
- 10 5. I am aware of the activities conducted by the Mason Wing Walking Academy  
11 (“MWWA”), a business owned by Mike and Marilyn Mason and operated outside of  
12 their residence at 61 Greywolf Air Ct. within BRF. I have personally observed Mike  
13 Mason use his biplane to take off and land at the BRF airstrip with MWWA students  
14 aboard for the past several years. This activity has been increasing over the past few  
15 years. I know that Mike Mason added a second biplane which is used for MWWA  
16 customers. Initially, he only used one biplane for this purpose.
- 17 6. I know that the Masons’ use of the BRF airstrip has been of concern to the BOD  
18 before I became chair as to whether the Masons’ use of the BRF airstrip was for a  
19 “commercial” purpose, which is prohibited by the Declarations, Art. III, Sec. 2. (d).  
20 My understanding was that prior BODs had been told by Mike Mason that this use  
21 was “noncommercial” because the Masons offered the flight at the conclusion of  
22 wing-walking lessons for “free.”  
23
- 24 7. I also know from my conversations with prior BOD members that Mike Mason had  
25 assured those BODs that he operated the MWWA in full compliance with the rules of  
26

1 the Federal Aviation Association (“FAA”) and that the MWWA was fully insured,  
2 with the Association named as an additional party. Based on these reassurances past  
3 BODs did not feel they could take action I understand.

4 8. Sometime in January of 2022 I talked with Mike Mason about MWWA at the home of  
5 Drew Zacharias, the current vice-chair of the BOD. In this conversation Mike Mason  
6 acknowledged that the MWWA had more than 560 flights in the previous year. I  
7 know that the MWWA’s advertised rates are \$750 to ride the upper wind and \$985 for  
8 a full course of riding the upper and lower wings on a biplane flown by Mike Mason.  
9 Simple math told me that the MWWA produced hundreds of thousands of dollars in  
10 revenue for the Masons.

11 9. On January 20, 2022 , I hosted a meeting of pilots who use the BRF airstrip and some  
12 Board members at my hangar. During that meeting we discussed the huge profitability  
13 of MWWA based upon the number of flights and fees paid by customers which to  
14 several of us demonstrated that the MWWA’s use of the BRF airstrip was really  
15 “commercial” in nature and not what Mike Mason had represented it to be.

16 10. We also questioned whether the FAA approved of wing walking. Two BOD members,  
17 Gunar Clam and Dave Woodcock were tasked with writing the FAA about the nature  
18 of the MWWA operations (“commercial” versus “noncommercial”) and whether the  
19 FAA approved of wing-walking. They wrote the letter of inquiry and reported back  
20 that wing walking is not approved by the FAA and that commercial operations are  
21 governed by a different set of FAA rules.

22 11. Based upon this information the BOD directed me to write a letter to Mike Mason,  
23 which I sent on January 23, 2022, stating “The Board of Directors has determined hat  
24

25  
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27 LONG DECLARATION IN SUPPORT OF  
PLAINTIFF’S MOTION FOR SUMMARY  
JUDGMENT

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1 the flight operations of Mason Wing Walking Academy are a commercial activity  
2 which is not allowed by the CC&Rs of Blue Ribbons Farms. Please refrain from using  
3 the airfield for these operations.” A true and correct copy is Exhibit A hereto.

4  
5 12. Mike Mason did not cease using the BRF airstrip in response to my January 23, 2022,  
6 letter.

7  
8 13. The BOD decided to seek legal advice from Endejan Law, LLC, which was to be  
discussed at an executive session of the February 23, 2022, BOD meeting.

9  
10 14. Marilyn Mason is a member of the BOD. Because of the self-evident conflict of  
11 interest arising from Ms. Mason’s ownership of the MWWA, the BOD determined  
12 that she should be recused from any meeting involving discussion of any BOD action  
13 involving the Masons for MWWA. On February 23, 2022, in the BOD Open Meeting  
14 Ms. Mason was asked to recuse herself from the executive session discussion. She  
15 refused to do so. Thereafter, another member moved to have Ms. Mason recused from  
16 the executive session meeting, which passed, and Ms. Mason left the meeting.

17  
18 15. At the February 23, 2022, executive session the BOD discussed the legal advice  
19 provided by Judith Endejan. She was directed to send a formal “Cease and Desist”  
20 letter to the Masons to cease using the BRF airstrip for MWWA operations.

21  
22 16. This letter was sent on March 7, 2022. The Masons did not stop using the BRF airstrip  
23 until approximately March 30, 2022 when they provided a written statement to the  
24 BOD stating that “we have voluntarily suspended nonfamily and friend wing walking  
25 flights from use of the BRF air strip and will continue to do so until authorized  
26 otherwise.” A true and correct copy is Exhibit B hereto.

1 17. During March 2022 other members of the Association, such as Corby Somerville,  
2 contacted BOD members with concerns that MWWA may not have liability insurance  
3 which would cover any injury or death from student wing-walkers, This could expose  
4 Association members to liability for allowing wing-walking to occur using the BRF  
5 airstrip or even in BRF.  
6

7 18. I wanted to find a way to work things out with the Masons that would bring them into  
8 compliance with the Declaration. The BOD made several overtures at settlement in the  
9 spring of 2022, but the Masons rejected all of them but proposed no alternatives. The  
10 BOD felt strongly that the Association needed a binding agreement with the Masons  
11 that would ensure that they would not use the BRF airstrip in the future for MWAA  
12 and they would bring their business into compliance with the “home business” rule in  
13 the Declaration. The Masons refused to sign such an agreement.  
14

15 19. Having found no alternative, the BOD directed the filing of this litigation against the  
16 Masons to enforce the Declaration. A complaint was filed on May 13, 2022

17 20. On May 25, 2022, Mike Masons stopped by my home while I was in my yard and  
18 gave me a signed statement saying he hasn't been using the BRF airstrip for  
19 commercial purposes and will continue to not use it for commercial purposes. He  
20 asked me to sign for it ( accepting the letter ) and after some other discussion he  
21 threatened legal action against me personally and left. A true and correct copy of this  
22 statement is Exhibit C hereto.  
23

24 21. I received a copy of a letter from the Masons dated July 26, 2022, to “Blue Ribbon  
25 Farms neighbors.” A true and correct copy of this letter is Exhibit D hereto. In this  
26 letter, the Masons criticized the litigation as amounting to pure vindictiveness and  
27

LONG DECLARATION IN SUPPORT OF  
PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT

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1 accused the BOD of “deceit”, “making false claims” and “sleazy tactics”. The  
2 contents of this letter are not true. Andrew Zacharia and I wrote a response to point out  
3 the falsity of the Masons letter, sent to all Association members. A true and correct  
4 copy is Exhibit E hereto.

5  
6 22. On August 5, 2022, the BOD held a meeting. Mike and Marilyn Mason attended.  
7 Marilyn Mason made a motion to drop this litigation. It did not pass. Then Mike  
8 Mason became belligerent and shouted at the two female members of the BOD “I hate  
9 you” and made other statements. I told him that he was out of order and should stop  
10 this conduct, was appeared unnerving to all Board members, except his wife.

11 23. A true and correct copies of complaints that the BOD has received about the MWWA,  
12 and its actions are Exhibit F hereto.  
13

14  
15 I verify under penalty of perjury under the laws of the State of Washington that the foregoing  
16 statements are true and correct,

17 Executed this \_24th day of August 2022 at Sequim, Washington.

18 /s/Mark Long (original signature page to  
19 follow)

20 Mark Long  
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27 LONG DECLARATION IN SUPPORT OF  
PLAINTIFF’S MOTION FOR SUMMARY  
JUDGMENT

*Endejan Law, LLC*  
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Everett, WA. 98203

# EXHIBIT A

The Board of Directors  
Board of Directors

Mr. John Adams  
4100 Broadway Ave.  
Boston, Massachusetts 02118

Dear Mr. Adams,

The Board of Directors has approved the final operations of Adams Young Publishing Agency as a subsidiary of Adams Young Publishing Co. as a subsidiary of Adams Young Publishing Co.

Please refer to the attached for more information.

Thank you.

John Adams  
Chairman

John Adams

# EXHIBIT B

3/30/2022

BRF Board, in response to Mark Long's and attorney Judy Endejan's letters:

As previously stated to the board and additionally to the chairman, since the time of the first letter, we have voluntarily suspended nonfamily and friend wing walking flights from use of the BRF air strip and will continue to do so until authorized otherwise.

Mike and Marilyn Mason

---

# EXHIBIT C

To the Blue Ribbon Farm Board

I, Michael Mason have not been using the BRF airstrip for commercial purposes and will continue to not use the BRF Air strip for commercial purposes. This is the second letter I have provided the BRF board stating such and have stated to the chair and vice chair in person on more than one occasion that I am not using the BRF air strip for commercial purposes.

Michael Mason



May 25, 2022

Received By Mark Long May 25, 2022



# EXHIBIT D

Hello Blue Ribbon Farms neighbors.

July 26, 2022

We, the Mason family, are writing this letter to inform the association members of the details of BRF Board of Directors (BOD) lawsuit against our family. Our hope is to stop this large, unnecessary expenditure. The BOD has advanced this frivolous lawsuit against us which has already cost our association thousands of dollars and will cost many more thousands of dollars if the BOD continues with this suit.

**Who is the Mason Family?**

We have lived at our Blue Ribbon Farms Air Park home for over 18 years and Marilyn has operated her Wing Walking Academy for over 12 years. Our business has grown to the point that it is appropriate to have moved our flight operations to initiate and terminate at airports other than Blue Ribbon Farms. Marilyn still teaches ground based Wing Walking techniques to her students in our BRF hangar.

Marilyn Mason is a hard working mother of six who has provided for her family over the past 12 years by working from home. Marilyn teaches students from all over the world to walk on the outside of biplanes.

**What is the BOD spending thousands of your dollars on?**

A vindictive vendetta.

For reasons that are unclear, the BRF BOD wants to force Marilyn Mason's home based enterprise to discontinue her ground based instruction and leave her own property and hangar and operate elsewhere. She would be forced to work outside, in the elements, at another airport.

By working from home, Marilyn is able to care for our nine-year-old daughter, Sophia. Sophia was born with Spina Bifida, a condition which has left her with numerous health difficulties including not having use of her legs. Sophia requires care throughout the day which entails catheters, enemas, diaper changes, etc.

For Marilyn, working from her home is vital to caring for Sophia's needs.

**What is this lawsuit over?**

The BOD's lawsuit against our family has two aspects:

- 1 Use of the BRF Airstrip as it relates to our wing walking academy.
- 2 Use of our hangar as a classroom for Marilyn's wing walker training.

Since we completely surrendered on the point of the airstrip use and stopped using it at their very first request, this aspect is undoubtedly a complete waste of our association's money and an unmerited burden in lawyer fees on the Mason family.

The second aspect of this lawsuit, the use of our hangar as a classroom, is pure vindictiveness. This aspect of the suit has the potential to affect many other association members regarding their freedom to operate a home based enterprise and will be costly to all. At the recent annual association meeting the Chairman and Vice Chairman explained that according to their own attorney, our use of our hangar

as a classroom in no way poses a risk to the BRF association, yet the BOD went ahead and expanded their lawsuit to kick Marilyn and her students out of her hangar/classroom.

The BRF BOD initially sued us for use of the airstrip for our wing walking activities. This lawsuit was filed even though we had already immediately stopped using the airstrip when asked to. We even put it in writing (twice) that we had stopped and would continue to stop using the airstrip for our wing walking flights. Their lawsuit acknowledges that we stopped but they are suing anyway. They have made an unfounded claim that they "have reason to believe" we will not honor our written agreement. They are suing us over something they think we may do in the future!

The BRF BOD took the further step of expanding their lawsuit to demand that Marilyn stop using our hangar as her classroom for teaching our students to wing walk. They have made the false allegation that we lack a required permit from the county to operate a home based business.

The county is aware of the details of Marilyn's home based enterprise and has confirmed that, just as the many other home based enterprises in our association, we are in compliance with 33.10.40, 33.47.010, 33.47.020 which does not require a permit.

BRF's requirements for home based enterprises are detailed in the declaration of Covenants Article V, section 6 and is simply a word for word copy of the text used in the Clallam County Code 33.10.40 which details the requirements to operate under the home enterprise category. Given that Clallam County has determined we are in compliance with their code, one would logically conclude that the same conclusion of compliance would be applied to the BRF CCRs, given they are of the same source.

**What does the association stand to gain?**

Precious little.

We long ago moved our wing walking take-offs and landings to Sequim Valley Airport as asked, so there is nothing to gain in that aspect. Our offshore wing walking flights are completely separate from the BRF BOD sphere of influence so nothing will change in that regard.

Kicking Marilyn out of her hangar does nothing for the association other than perhaps a smug sense of satisfaction for those who are leading this vendetta.

**What does the association stand to lose?**

Freedom and money.

Your money, Your freedom.

Should this lawsuit continue at its current pace, the association will burn through the \$20,000 earmarked very quickly. Additional funds would require an assessment of the entire association.

If the BOD were to lose this suit, the association would be liable for lawyer fees for both sides. This would necessitate further assessments.

**The rights of all association member are at risk**

The precedent of denying association members their right to operate a home based enterprise, as clearly allowed by our governing documents, is a threat to many of us who operate home enterprises.

**What are the odds of the association losing this lawsuit?**

No one can predict the outcome of a lawsuit, anything can happen in court, however it is safe to say victory by the BRF BOD is far from a certainty.

The BRF BOD has some key factors working against them:

- **Deceit.** The BRF BOD has made false claims that we are in violation of Clallam County code and FAA Regulations. Both of these agencies have been consulted and have confirmed we are not in violation of their regulations. These false allegations and failure to follow required procedure have resulted in expensive litigation and risk of greater liabilities to our association and to individual board members.
- **The BOD failed to follow** the association's rules regarding how to fairly resolve a dispute. Article VI, section 3 (d) outlines the required procedure the BOD must follow to attempt to resolve an issue. It specifies the need to hold fair hearings in an attempt to resolve these issues before resorting to litigation. The BOD failed to take these steps and simply jumped right into litigation.
- **Filing a lawsuit against an association member for action they "may do in the future"** is not an action authorized in our by-laws or Declaration of Covenants.
- **Their selective interpretation/enforcement** may be problematic. They have singled out Marilyn's business while there are other BRF based businesses also lawfully using their hangars and homes for home enterprises that are not being asked to stop.
- **Their failure to give required notice of meetings** which resulted in altered vote outcomes. The BRF board of directors has been holding meetings without giving notice as required article V, Section 3 of the By-laws. Not only have they failed to give notice to Association members they also withheld notice to fellow board member, Marilyn Mason. This resulted in altered vote outcomes. By not notifying Marilyn of special Meetings in which a vote was taking place they were able claim a two-thirds vote via a 4-2 vote with six officers present. Had Marilyn been notified of the meeting the vote would be (with Marilyn abstaining, yet present) 4-2 with seven board members present (57%) This fails to meet the required 66% threshold detailed in Article 6, section 3 (d) which states, "The association, by means of a two-thirds vote of the Board of Directors shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants..."

**Deception at the annual meeting**

The BOD came before the association at the June 4, 2022 annual meeting asking for a vote to approve \$20,000 to spend in their lawsuit against us. As part of this request, they displayed a power point presentation in which they misled the association by presenting outdated information and omitting current information. The BOD presented outdated text from a communication from our lawyer in which he stated we will be continuing to use the BRF airstrip due to an abandonment of covenants issue.

The BOD omitted two other written statements from us which clearly state that we had stopped using the airstrip in conjunction with our wing walking instructional flights at their very first request.

**Sleazy tactics**

The four Board members who have been voting to continue and expand this lawsuit have been resorting to sleazy tactics. One board member contacted management at Sequim Valley airport and gave them false information about us being under investigation by the FAA and advised them to be concerned about us operating at their airport.

They have been using their lawyer to demand information about our personal lives including details of our oldest daughter and difficulties she had in high school.

**A rogue board asking for more power**

This rogue BOD stated at the annual meeting their intent to attempt to change the bylaws/CCRs to give them more power. This board has proven they cannot be trusted to operate within the parameters currently set for them, it would clearly be a grave error to expand their power or loosen any restraint on them.

**Attorney fees:**

The BRF BOD is attempting to make us pay their attorney fees. This is an entirely inappropriate demand. We stopped using the airstrip at their very first request, thus hiring an attorney at all was unnecessary and not authorized by the BRF By-laws/CCRs.

The board skipped the required fair hearings and jumped straight to litigation.

The board has been paying an attorney for tasks beyond any scope necessary and reimbursable per our By-Laws and CCRs. Their attorney has been working on tasks such as falsely accusing us of FAA and County regulation violations and digging into our private lives and past in some attempt to find dirt on us.

To put it bluntly these people are working outside of their mandate and authority, defaulting to nasty tactics, and asking us to pay their attorney for our own harassment is highly objectionable.

**We are grateful for a concerned group of BRF association members and other members of the local aviation community which have generously pledged financial support for our defense. At this time, we have chosen to use our own funds. We are very thankful knowing our kind and concerned neighbors are standing by to help defend against this suit.**

**What can be done?**

A vote to fully fund this lawsuit will have to be made as soon as the current \$20,000 allotment is expended. We would encourage all association members to vote no on spending our association money to further this vendetta. Ideally, we can stop this suit now without burning further into BRF's very limited reserve capital. I ask we urge the BOD to immediately halt this unauthorized expensive legal action. BRF Chairman email address: [chairman@blueribbonfarmsassociation.com](mailto:chairman@blueribbonfarmsassociation.com)

If you have questions or comments Marilyn can be reached at 360-775-1213, [Marilyn9978@gmail.com](mailto:Marilyn9978@gmail.com) or Mike at 206-369-9924, [roundmotor@gmail.com](mailto:roundmotor@gmail.com)

# EXHIBIT E

August 1, 2022

BRF Board Response to the Mason Letter:

Dear Homeowners,

The July 26<sup>th</sup> letter from Marilyn and Mike Mason had several omissions and also misinformation that the Association's attorney felt needed to be addressed. We are purposefully avoiding pointing out every fallacy in his letter, and instead, have selected to address a few accusations so as to provide you with enough information to question the veracity of the letter.

The Masons open their letter with an introduction to the family. Much of the information is true. However, they have failed to disclose information that is germane to the Association's case against Mason Wing Walking Academy (MWWA).

Mike Mason was a private corporate pilot up until last year. He is also a certified flight instructor. Although Marilyn provides the ground training for wing walking, Mike has been the principal wage earner for the family. In this role, Mr. Mason has used the BRF airstrip for a variety of commercial enterprises, including training student pilots and experienced pilots in advanced flight maneuvers. He has also felt it appropriate to extend an invitation to non-resident flight instructors to use the BRF airfield for training. The Mason family business operates both as West Coast Spin Doctors and Mason Wing Walking Academy (MWWA). It is listed as a private, commercial enterprise providing a once in a lifetime thrill ride, and not strictly an educational program as he asserts. Last year, Mr. Mason admitted to neighbors that he flew approximately 550 students last year (@ \$800-\$1000/person) using the BRF airstrip, taxiways and roads. We applaud the fact the Masons have created more than a \$500,000/year enterprise, but hoped that now, more than ever, realize the importance of acknowledging the impact it has had on the community.

Mr. Mason stated in his letter that *"Our business has grown to the point that it is appropriate to move our flight operations to...other airports."* This move was not done voluntarily, as is alluded to in his letter. Before there was any decision to secure legal assistance, members of the Board met informally with the Masons and suggested it would be prudent to take their operation off the BRF airfield. This suggestion was met with both defiance and threats. Without going into detail, Mr. Mason threatened if he were "kicked off the field," he would respond by increasing his personal use of it. Mr. Mason remarked (paraphrasing) "he would start doing 80 take offs and landings every day, and his daughter and son would soon be joining him as well'. We recognize Mr. Mason may have been exaggerating at the time, but he was adamant that he could/would "make the homeowners miserable" by increasing his daily usage and therefore the noise. This threat is strikingly similar to one made in an earlier email under a previous Board.

### **Response to Accusations of being "Rogue"**

The BOD is elected to represent ALL the homeowners in the BRF community. We are obligated under the Declaration and Covenants to respond to community concerns. Since taking office, the new BOD was repeatedly asked to address the ongoing concern over MWWA. The complaints have come from different sources, and for various reasons such as; excessive noise, commercial use of the airstrip, invasion of privacy, tourists and MWWA students trespassing onto private property, liability for the

homeowners, damage caused by excessive traffic and non-resident parking. These are all legitimate complaints.

Although, many of you may not experience these disruptions, or be unaware of them, one FACT is a given.... they are all being created by **one business**, MWWA. The BOD recognizes there are other private commercial businesses operating in homes and hangars in BRF. However, the **significant difference** in this case is that only **one business** presents a major liability risk to the Association and **only one** is currently **highly visible** within the community and **only one** is the focus of most of the complaints. The Declarations clearly state “The home enterprise shall operate in a manner which gives **no outward appearance** of a business”. Additionally, “the home enterprise **shall not increase vehicular traffic** beyond that which is normal for residential use or require parking on private roads except those used exclusively by the owner of the enterprise.” 550 paying clients equates to a minimum of 550 visitors, onlookers, and cars making multiple trips to and from the Mason’s residence. Most of these flights are compressed within a six-month period of good flying weather. Mr. Mason might argue that other businesses bring cars, and non-residents into the community. This is true. However, what distinguishes the Mason operation from others, is that seven days a week (weather permitting) the business attracts 4-6 cars beginning at 8:30am which are parked on his front lawn for most of the day.



Taken on August 2, 2022

The red truck and trailer belong to the Masons. The other six cars in the picture do not.

This is the view his closest neighbor has to contend with most days.

The Masons have not been using the airstrip for their commercial business for several months. However, as mentioned before, you were **falsely led to believe** they did so voluntarily. They did not. The Board took several steps to get them to look for an alternative airport. However, they have been unwilling to sign any **legal agreement to permanently cease and desist** using the BRF airstrip for commercial purposes. It is true, only after the Board hired an attorney to try to negotiate with the Masons, they presented the Board with a simple typed, **but unsigned document** notifying the Board they would no longer be using the airstrip. However, what was provided was inadequate. When asked to sign an official “cease and desist order” prepared by legal counsel in March, the Masons refused. They **did not** mention their refusal in the letter you received but now you know.

Mr. Mason also failed to disclose that after claiming he would not use the BRF’s airstrip, he decided to circumvent this claim by taking off from own and a neighbor’s front lawn. When Mr. Mason was asked if he had resumed flying with students, Mr. Mason replied (paraphrasing) “Yes I did, but I didn’t use the

BRF airstrip.” When asked to explain, he replied (paraphrasing) “I used my neighbor’s yard and my own, so technically I’m complying”. This action deteriorated the Board’s trust in Mason’s claim he would conform to the CCR’s. It also increased the importance of securing a legal agreement with the Masons.

Following this incident on April 4<sup>th</sup>, the Association received a letter from Mason’s attorney stating “Pursuant to the authority stated above, the demands of the Association **will not be met. The Masons will continue to use the BRF airstrip as they have, and others have, for the last 18 years**”. **This is the current position of the Masons.** The Masons have made it very clear (through their attorney) they are retaining the right to use the BRF. This information was shared with you at the HOA meeting and was the basis for seeking additional allocation for the legal budget. The Masons claim that the actions of the BOD is strictly vindictive. Clearly, it is not. The BOD’s is focused on securing a legal and binding commitment from the Mason’s (1) to cease using the BFR airstrip now, and in the future, and (2) to bring their business into compliance with all the other home businesses operating in the community. Namely, to make it less visible to those living around them. For instance, it has been suggested to the Masons they could meet their students at Sequim Valley Airport and transport them to their residence for training. After which, they could be returned to the airport for their thrill ride. This would eliminate the problem with parking and traffic, while complying with the CC&Rs. This suggestion was rejected. Rather than working through his attorney to negotiate a settlement, the Masons have chosen to make false claims about the Board’s motives. This, appears to be an obvious effort to undermine your confidence in the legitimate work we are doing on your behalf. He has even gone so far as to equate his business with others in the community, suggesting that if he loses his, yours will be next. To be clear, this is purely a fabrication on Mason’s part. The Board does not have any interest in eliminating home businesses on BRF.

As your BOD we have a duty and obligation to uphold the CCR’s, respond to complaints and attempt to negotiate reasonable solutions to problems as they arise. Contrary to the Mason letter, The BOD has complied with all procedural requirements under the Declaration and Bylaws to take this necessary action to enforce the Declarations. Although we are not paid, we have spent countless hours attempting to bring this issue to a resolution. However, despite our efforts, the Masons seem to want to “up the ante” and prolong it. Thus far, they have been evasive, engaged in legal gamesmanship, ignored deadlines, refused requests for documentation (for claims they’ve made), and most recently decided to approve the issuing of subpoenas to other BRF homeowners. It is important to note, the subpoenas **only went to neighbors they have had conflicts with.**

The BOD, in filing suit on behalf of the Association, is pursuing proof the Masons claim to have, but no one to our knowledge has seen. For years the Masons claimed to have liability insurance, along with FAA approval for their wing walking operation. They also claim they have the necessary license for running, specifically, the wing walking operation, under their West Coast Spin Doctors business license. However, repeated requests for this documentation, has been met with complete silence. Currently, the Masons have refused to provide relevant evidence that may force us to spend additional legal dollars to go to court in order to compel them to produce the requested relevant documents. One has to question, why? If they have it, why not produce it? Past Association board members were told by the Masons, that they had *insurance*. However, Mr. Mason recently admitted they couldn’t get liability insurance for their wing walking enterprise, because no insurance carrier offered it. This revelation only intensified the HOA need to have a clear, legal agreement with the Masons.

We believe the Mason's letter is a veiled attempt to divide this community, and force the Board into dropping the suit, allowing them to return to past practices. The Masons still have the option to negotiate a legal settlement with the Association. But instead, they have chosen to file countersuits, subpoena neighbors, deliberately mislead, omit critical details, and call into question the integrity of neighbors working on your behalf.

We had hoped to have a solution by now, but the legal process has its own timetable. If the Masons want to stop this, they are in control of the next step. We are proceeding to follow the advice of our legal counsel, but still hope to find common ground and a contract both sides can live with. We are, and always have been, waiting for the Masons to agree to follow the CC&Rs and By-Laws by proposing viable solutions. But, we've never received a counter offer to our entreaties. Why aren't the Masons willing to negotiate? The door has always been open.

We would encourage you to reach out to us if you have any questions regarding the contents of this or the Mason letter. We promise to provide you with a **truthful response**. Because, unlike the Masons, we have nothing to gain personally from this work. Therefore, we have no reason to lie, misinform, or mislead you.

We also welcome your input. We have all have heard from a vocal MINORITY who openly support him. We would like to hear from you, the "silent majority".

Thank you for time and consideration.

# EXHIBIT F

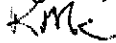
8/11/22

To Blue Ribbon Farms BOD

Re: Mike Mason dba Wingwalker / MMWA

This family is a blight on the BRF development. I wish nothing more than he take his plane, his business and all the rest, and fly far, far away. I have lived on Buckhorn Road for more than 20 years and have had to listen to him and his plane drone on and on, disturbing my peace and that of all the others that live on Buckhorn Road. The folks over here are sick and tired of the guy. He consistently flies directly over my house and it is no better now since I am in a direct line to the Sequim Valley Airport. There have been many letters over the years to the editor of the Peninsula Daily News from residents near and far (Agnew, Montara, visitors to the Dungeness Park and others) asking why he won't just go away. Now I see online complaints from folks living near Sequim Valley Airport, upset with his noise and flying practices. He could care less that our property values are being jeopardized by his continual flying over our homes, never mind our sanity and safety. It's all about him and what he wants to do, not about his neighbors. We came here for the beauty and peace and quiet. There is no peace and quiet any longer as he flies most every day, all hours of the day and late into the evening. He could be a decent guy and change his practices, but he won't. He's never been held to account by the HOA as to his flying patterns so I expect nothing to will change. Most all the other pilots are responsible and land parallel to Lotzgezell. Many years ago, he was asked by some HOA members to change his practices but he indicated that he would continue doing what he wanted to do because he could. He's a bully and other than trying to get a noise ordinance or some sort of regulation or assistance from elected officials I expect we are at the mercy of this nasty person.

Since we can't "vote him off the island", I'll just keep fantasizing that one day he will go away. It can't happen soon enough for the folks on Buckhorn Road. I hope the lawsuit will have some positive results.

Regards,  
  
K. McCoy  
Box 63  
Sequim



[brf.hoa.member1@gmail.com](mailto:brf.hoa.member1@gmail.com)

---

## Your letter to BRF BOD

---

**Shirley Ross** <[shirleyross1@yahoo.com](mailto:shirleyross1@yahoo.com)>

Tue, Jul 26, 2022 at 12:26 PM

Reply-To: Shirley Ross <[shirleyross1@yahoo.com](mailto:shirleyross1@yahoo.com)>

To: "brf.hoa.member1" <[brf.hoa.member1@gmail.com](mailto:brf.hoa.member1@gmail.com)>

Hi Rachel. I wrote to the board president about my concern over the constant and annoying biplane noise. I had written to a previous board president, Mark cheney, a year or so earlier. He basically said that the biplane business had been grandfathered in years earlier and there was no recourse. So I dropped it.

My more recent emails, that are no longer available, to the last board president were also asking about the noise. I didn't mention the grandfather issue. I complained about the fact that as soon as the weather got nice, this guy started running plane rides almost daily, and for hours, and how disturbing the constant sound is. I told him I had lived in Sequim for five years and this noise pollution issue was the only thing I didn't like about sequim. He seemed surprised that I even heard the noise because I was not near the runway, and about five houses away, down on Lotzgesell. I assured him that I could indeed hear the noise, especially when the plane made certain turns, and perhaps the prevailing westerly winds exacerbated that. I also told him I knew people as far east as Maines farm and also Marine Drive, who were also disturbed by the noise. We all thought it sounded like the flight parts of a war movie. When I asked him if he had received other complaints, he said "No" which I find very hard to believe. I told him some of my neighbors were also concerned and that I could start a petition if necessary.

He asked if he could pass on my letter to the company owner, a Mr. Mason. I agreed to this, so he also has the emails. The board president came back to me saying that the plane owner was making some changes to the planes engines or propellers to help with the sound. He also offered to take me up for a ride. I declined. That was the end of it.

Shirley Ross

Sent from Yahoo Mail on Android

[shirleyross1@yahoo.com](mailto:shirleyross1@yahoo.com)



pollution be abated.

Please contact me for further discussion and hopefully how your association intends to deal with this matter.

Mary Lofstrom

Sent from my iPhone



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## Undesirable landing patterns

---

Chris Ogden <cpogden@gmail.com>

To: chairman@blueribbonfarmsassociation.com

Cc: Steve Wry <sbwry@q.com>

Bcc: kerimcintyre2@gmail.com

Mon, Apr 12, 2021 at 1:47 PM

Hi, Rick, we know you are new to chairman position, and we are told you are a pilot. We would like to bring the attention of the Board and/or Airport Committee to a situation involving landing of aircraft.

Most pilots in BRF fly respectfully, and land in the proper pattern. For some time now, the pilot of the Stearman bi-plane, Mike Mason, has been flying low over our home while landing. In addition, our neighbors to the south, Steve and Kathy Wry, also being affected, join in the objection below.

If this happened only occasionally, we would probably let it go and try to ignore it, but on many days, and sometimes every day during summer, he will land four or five times, or more. As you know, the reason for this is that he runs a sightseeing business.

As you are aware, the BRF CCRs indicate the airstrip is a standard left-hand pattern (which is unfortunate, from our point of view). However, Mr Mason does not adhere to this landing pattern, in that he cuts the downwind leg short and cuts across our properties at low altitude. This is, as we said, highly annoying, and interferes with our quiet enjoyment of our property. We would also question the safety of flying so low over a dwelling. No other pilot, that we have observed, lands in this manner. Please see attached photos and diagram.

While the CCRs do have specific exceptions regarding flight operations, we do not believe the rights of pilots at BRF are absolute. Here is a partial quote from "Rights in Airspace and Relative Rights of Surface Proprietors":

"The landowner has exclusive control of the immediate reaches of the enveloping atmosphere[i], even though the airspace is a public highway[ii]. S/he owns at least as much above the ground as s/he can occupy or use in connection with the land[iii]. The right of an owner of lands extends downward and upward indefinitely[iv].

Thus, flight of an aircraft over land is lawful, unless the flight is at such a low altitude as to **interfere with the existing use to which the land is put by the owner**, or unless the flight is conducted in a manner imminently dangerous to persons or property lawfully on the land[v].

Any aircraft flying over the land and the structures on the land of another is a trespasser[vi]. However, privileged overflight through public airspace does not constitute a trespass.

A temporary invasion of the air space by aircraft is a privilege. **So long as it does not interfere unreasonably with the possessor's enjoyment, it is privileged[vii]."**

See: <https://aviation.uslegal.com/ownership-of-airspace-over-property/rights-in-airspace-and-relative-rights-of-surface-proprietors/>. **\*\*Bold\*\*** emphasis added.

In addition, we quote from the "Airstrip" RULES section of BRF website:

"19. All pilots should be considerate of property owners in the community, and use prudent and safe measures to minimize aircraft noise. Try to stay high and use minimum power until on short final rather than dragging in over the houses on Lotzgesell Road."

Therefore, we would respectfully request that Mr Mason, or any pilots, find a different final approach than to cut across our properties: e.g., continue the downwind leg to the east, with then a proper base leg, and make a final approach from east to west paralleling Lotzgesell Rd., as indicated in the "Airstrip" Rules. We do understand that his aircraft has certain technical deficiencies, but we would hope that a solution could be worked out. A different landing pattern does not seem impossible to come up with.

We also hope that the airstrip committee, composed of both aircraft owners and non-pilots, would have an interest in enforcing the flight and landing rules, and see the desirability of not annoying the non-flying homeowners at BRF by flying directly over their property at low level.

Thank you for your attention,

Chris Ogden and Keri McIntyre, 3104 Kitchen-Dick Rd.  
Steve and Kathy Wry 3100 Kitchen-Dick Rd.

Letter From Blue Ribbon Property Owner:

On Aug 21, 2018, at 8:17 AM, Chris Ogden <cpogden@gmail.com> wrote:

To: Mark Cheney, Chairman, BRF Property Owners Assoc.

Mark, I am dressing this to you, as head of the Association. This concerns our friend with the Stearman Biplane(s), apparently doing business as Mason Wing Walking Academy and/or West Coast Spin Doctors.

Perhaps you have heard this complaint before. First, the noise level of whatever he does (he seems to advertise as a wing-walking school, but as I rarely see someone on the wing, I assume he is giving mostly stunt plane sightseeing rides) is very annoying. The taking off and landing are not an issue, but the constant droning as he performs acrobatics over Blue Ribbon Farms becomes truly grating, especially as it continues hour after hour starting in mid-afternoon for 3+ months of the year.

While I understand the CCRs in Article III, Section 1 clearly states that "...every owner waives all claims for damages... including damages from noise..." and, as such, I have no objections to anyone taking off and landing. It is the stunt flying that I find particularly egregious, and frankly, rather rude of the pilot to subject nearly 150 homeowners, most of whom do NOT own or fly airplanes, to his noisy acrobatics, for his personal profit.

I understand there is a designated stunt-flying area just to the west of the bluff. If he is indeed flying in that area, it seems to make no difference in the noise level.

I also believe I am not the only one that is not happy with this situation, while I haven't taken a poll. I believe you personally probably have no control over where he flies and what he does, and it is more likely that this will be a noise complaint to the FAA, but...

The second, more pertinent issue is that he is apparently operating a business out of his BRF property. So, as Chairman, you can perhaps explain to me why this is not in violation of the CCRs, specifically:

Article III, Airstrip, Section 2 (d): "The use of the airstrip for commercial purposes is not permitted." Also, Article IV, Miscellaneous Restrictions, Section 6: "Home business enterprises shall be carried on entirely within the lot owner's residential-style structures" and (b) "The home business shall operated (sic) in a manner which gives no outward appearances of a business."

Clearly Article III Sec. 2 (d) is being violated. He flies his paying passengers using the BRF airstrip. I believe the other article applies equally.

If there is something that I am unaware of as to why this is being permitted, I trust you can probably can tell me what it is? If there is some reason the BOD is powerless to enforce these provisions of the CCRs, perhaps in spite of previous attempts, then again, I would like to know that.

I really do not want to be contentious over this issue, but I have lived here since 2014 and I'm really become tired of this nuisance. During his flying season, I am unable to exercise my right of quiet enjoyment of my property. If he would just take off and fly somewhere else, I might be satisfied, but that would not address the obvious violation of the "no commercial business on the airstrip" rule.

Looking forward to your response and a history, if any.

Sincerely,

Chris Ogden  
3104 Kitchen-Dick

--

**PETITION**

**TO STOP NOISE FROM MASON  
WING WALKER ACADEMY AIRCRAFT  
DISTURBING THE COMMUNITY AND  
WILDLIFE ON SHORE AND SEA**

Ida Birney, Ida Birney, 51 Holly Circle, Port Angeles, WA 98362  
Susanna Hafner, Susanna Hafner, 614-248-8297  
202 Cypress Circle, susannahafner@stcglobal.net

Peter - Dawn Weston Webb 360 471-3851  
110 Sea Buuff Ln  
Port Angeles, Wa 98362

Jeff Sazo (TW) 736-7874  
169 W. Washington ST,  
Sequim, WA 98282

Kent BOSTER  
181 CYPRESS  
SEQUIM, WA 98362

Dred Swenson + Kathleen Swenson  
Fred SWENSON  
181 CYPRESS, Port Angeles 98362

~~Sequim, wa~~  
Brad Hermanson  
111 Cypress Cir Port Angeles 98362

# PETITION

## TO STOP NOISE FROM MASON WING WALKER ACADEMY AIRCRAFT DISTURBING THE COMMUNITY AND WILDLIFE ON SHORE AND AT SEA

- Jill Steinhilber 72 MASONIA P. A. 98362  
272 MONTEVERA, PORT ANGELES, WA 98362
- MRS LOE SEPENS 272 MONTEVERA, PA 98362
- Corey Souzeville 162 CAUSWAY LN SEASUM 98362  
Dana Wendy Watson 564 O'Brien Rd CA
- James and Susan 32 Heather Circle 98362  
Russell 32 Heather Circle 98362
- PARIS ANNE HEART 51 Heather Circle 98362  
Paris Anne Heart 302 Holly Circle 98362  
Neil Graham 6644 Fir Hill 98362  
Travis Wilkins Finn Hill 98362  
M. Hilling 442 GUNN RD CA 98362  
Cathie Johnson 53 GUNN RD PA 98362  
Jesse Groust 401 LANE 72 98362
- Rose Bureau 182 Holly Circle PA 98362  
Sharon Highland 182 Holly Circle PA 98362  
P. K. Will 402 GUNN ROAD PA 98362  
Mabel Gibson 802 Gunn Rd, PA 98362
- Ramona

# PETITION

TO STOP NOISE FROM MIKSON  
WING WALKER ACADEMY  
AIRCRAFT DISTURBING THE  
COMMUNITY AND WILDLIFE ON  
SHORE AND SEA

Nancy Froh  
72 Holly Circle  
Port Angeles, WA 98242  
NANCY FROH

Pablo

John Fenton - 200 Cheswell -  
Port Angeles, WA 98242

Joe & Amy Preusser 597 Ann Hill - PORT ANGELES

MARCUS BONN 122 Sequim, SEQUIM

Gusula Mack 122 Sequim, Sequim

# PETITION

## TO STOP NOISE FROM MASON WING WALKER ACADEMY AIRCRAFT DISTURBING THE COMMUNITY AND WILDLIFE ON SHORE AND THE SEA

Helen... 171...  
Shane... 360-419-2077 403...  
Sue...

STUART KIEHL  
112 SEA BLUFF LN PORT ANGELES, WA 98122  
STUARTKIEHL@GMAIL.COM 707-7991927

Judith NORTON  
PROTECTED HARBOR 143...  
Catherine SKAG KIEHL  
112 SEA BLUFF LN PORT ANGELES WA 98122

Kathy Trainor  
122 Cypress Cir Port Angeles WA 98122  
360-481-2530

Steve Stout  
41...  
Port Angeles WA  
360-670-7115  
14111  
122 Cypress Cir  
PORT ANGELES WA  
98122

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

DECLARATION OF KERI McINTYRE IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

KERI McINTYRE declares:

1. I am over the age of 18 years and have personal knowledge of the facts stated in this declaration and if called on to testify I would competently testify as to the matters stated herein.
2. I am a resident of the Blue Ribbons Farms ("BRF") subdivision in Sequim, Washington and a member of the plaintiff Blue Ribbons Farms Property Owners' Association. ("Association"). I have been a member of the Board of Directors ("BOD") of the Association, since approximately 2018.

DECLARATION OF KERI MCINTYRE IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

- 1 3. I have read the Declaration of Covenants, Conditions and Restrictions that apply to the  
2 BRF subdivision. (“Declaration”), Attachment A to the Amended Complaint and am  
3 familiar with its restrictions against using the BRF airstrip for a commercial purpose  
4 and operating a home business, that must be conducted within the confines of the  
5 residential structure and not increase traffic.
- 6 4. I am aware of the activities conducted by the Mason Wing Walking Academy  
7 (“MWWA”), a business owned by Mike and Marilyn Mason and operated outside of  
8 their residence at 61 Greywolf Air Ct. within BRF. The BOD has filed this litigation to  
9 enforce the Declaration’s prohibition on the operation of the MWWA within BRF.
- 10 5. August 5, 2022, I attended an emergency meeting of the BOD called for the purpose  
11 of inquiring why the Masons why they had never responded to the BOD’s overtures  
12 to negotiate an agreement to bring the Masons into compliance with the Declaration  
13 without this litigation.
- 14 6. During the meeting Mike Mason sat in front of me to my right, facing me and BOD  
15 members Rachel May and Drew Zacharias. In mid-meeting Mike Mason leaned  
16 forward in his chair, quite near me, fully extended his arm towards me, pointed at me  
17 and Rachel and yelled “I hate you two.” He then said “I hate all four board members  
18 who are voting against me! You are stealing money out of my pocket that I need for  
19 my family! I feel like I am being mugged and when people get mugged they get  
20 violent!”
- 21  
22 7. I froze up, felt that my personal safety was threatened and feared violence from Mike  
23 Mason at that moment.  
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DECLARATION OF KERI MCINTYRE IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY  
JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

- 1 8. The public meeting went on for quite a while; after it was adjourned, another BOD  
2 member approached Marilyn Mason about Mike Mason’s outburst and demanded that  
3 Mike Mason apologize to me and Rachel. Mike Mason did come up to us and say “I  
4 wanted to apologize... but I was just being honest.”  
5  
6 9. When Mr. Mason offered his “apology”, it was not a real apology so I did not accept  
7 it. I took it to be an apology for losing his temper, because someone told him he  
8 “should” apologize. He did not apologize for his hate speech and the threat of  
9 violence.  
10  
11 10. I was shaken and upset for at least five days over Mike Mason’s threat to me. I fear  
12 being in his physical presence and that he will take retribution against me and my  
13 family for fulfilling my volunteer duties as a member of the BOD to enforce the  
14 Declaration, which the Masons have seriously violated.

15 I verify under penalty of perjury under the laws of the State of Washington that the foregoing  
16 statements are true and correct,

17 Executed this 24th day of August 2022 at Sequim, Washington.

18 \_\_\_\_\_  
19 Keri McIntyre  
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27 DECLARATION OF KERI MCINTYRE IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY  
JUDGMENT

*Endejan Law, LLC*  
*5109 23<sup>rd</sup> Ave. W*  
*Everett, WA. 98203*

1 7. I froze up, felt that my personal safety was threatened and feared violence from Mike  
2 Mason at that moment.


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15 being in his physical presence and that he will take retribution against me and my  
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17 Declaration, which the Masons have seriously violated.

18 I verify under penalty of perjury under the laws of the State of Washington that the foregoing  
19 statements are true and correct,

20 Executed this \_\_\_\_\_ day of August 2022 at Sequim, Washington.

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23 Keri McIntyre

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27 DECLARATION OF KERI MCINTYRE IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

DECLARATION OF NANCY POWELL  
IN SUPPORT OF PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT

NANCY POWELL declares:

1. I am over the age of 18 years and have personal knowledge of the facts stated in this declaration and if called on to testify I would competently testify as to the matters stated herein.
2. I am a resident of the Blue Ribbons Farms ("BRF") subdivision in Sequim, Washington and a member of the plaintiff Blue Ribbons Farms Property Owners' Association. ("Association").
3. I am aware of the activities conducted by the Mason Wing Walking Academy ("MWWA"), a business owned by Mike and Marilyn Mason and operated outside of

DECLARATION OF NANCY POWELL IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

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their residence at 61 Greywolf Air Ct. within BRF. I live next door to Mike and Marilyn Mason and am in a position to personally observe how they conduct the MWWA.

- 4. Attached as Exhibit A is a letter that I wrote describing my experience with the Masons' wing walking business. Every statement in that letter is true and correct and based upon my personal observations and experience.

I verify under penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct,

Executed this \_\_\_\_ day of August 2022 at Sequim, Washington.

\_\_\_\_\_

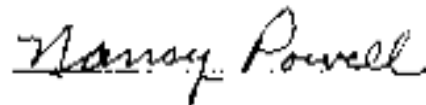
Nancy Powell

1 3. I am aware of the activities conducted by the Mason Wing Walking Academy  
2 ("MWWA"), a business owned by Mike and Marilyn Mason and operated outside of  
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4 Marilyn Mason and am in a position to personally observe how they conduct the  
5 MWWA.

6 4. Attached as Exhibit A is a letter that I wrote describing my experience with the  
7 Masons' wing walking business. Every statement in that letter is true and correct and  
8 based upon my personal observations and experience.

9  
10 I verify under penalty of perjury under the laws of the State of Washington that the  
11 foregoing statements are true and correct.

12  
13 Executed this 23 day of August 2022 at Sequim, Washington

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15 Nancy Powell  
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27 DECLARATION OF NANCY POWELL IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT

Endejan Law, LLC  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

# EXHIBIT A

**Nancy Powell**  
70 Greywolf Air Court  
Sequim, WA 98382  
(360) 681-7869

June 26, 2022

Re: Mason Wing Walking Academy

Despite efforts of our Greywolf Air Court neighbors to get Mike and Marilyn Mason to stop operating their wing walking business from their home at 61 Greywolf Air Court, they continue to do so, invading our privacy and causing noise and related nuisances for the neighbors on the court.

My home of twenty years at 70 Greywolf is right next to the Masons, so I am subjected to almost daily encroachments and invasion of privacy.

There is a shared taxiway that runs between my house and the Masons' so that planes from our section of the development can access the runway, which should be clear at all times. Mike, however, routinely blocks this taxiway, parking his own planes and clients' cars on the grass between our houses, often crossing the property line. They give lessons almost every day, so there are cars and people constantly, sometimes as many as eight cars. It looks like a parking lot with Mike's old truck and miscellaneous vehicles. With the taxiway blocked, other neighbors' planes wanting to get to the runway have to veer next to my house, and sometimes the wings almost touch the corner of the house.

Mike is using the taxiway as the parking lot and lesson space for his business. All the traffic causes potholes and damage to the shared driveway. I've never seen Mike help to maintain the driveway though most of the traffic is from his business.

When the Masons give lessons on the Stearman, and they have the hangar door open, the students can look right in my kitchen windows. We have lots of windows and I like to open the blinds to see the view and get light in the house. When they are giving lessons I don't have any privacy and I have to keep my blinds closed.

The Masons were supposed to move their commercial activities to a nearby airport, but their website still lists their home as the location of the academy, and they are still conducting business next to and sometimes on my property.

My late husband and I bought this house because of the panoramic vistas of the Olympics and the strait. We liked the quiet and the views. With our neighbor running an illicit business right next to the house, that is lost. It definitely decreases the value of the property.

Thank you,

Nancy J. Powell

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLALLAM

BLUE RIBBONS 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

DECLARATION OF DAVID WOODCOCK IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

DAVID WOODCOCK declares:

1. I am over the age of 18 years and have personal knowledge of the facts stated in this declaration and if called on to testify I would competently testify as to the matters stated herein.
2. I am a resident of the Blue Ribbons Farms ("BRF") subdivision in Sequim, Washington and a member of the plaintiff Blue Ribbons Farms Property Owners' Association. ("Association"). I have been a member of the Board of Directors ("BOD") of the Association, since 2021.

DECLARATION OF DAVID WOODCOCK IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

- 1 3. I have read the Declaration of Covenants, Conditions and Restrictions that apply  
2 to the BRF subdivision. ("Declaration"), Attachment A to the Amended  
3 Complaint and am familiar with its restrictions against using the BRF airstrip for a  
4 commercial purpose and operating a home business, that must be conducted  
5 within the confines of the residential structure and not increase traffic.
- 6 4. I am aware of the activities conducted by the Mason Wing Walking Academy  
7 ("MWWA"), a business owned by Mike and Marilyn Mason and operated outside of  
8 their residence at 61 Greywolf Air Ct. within BRF. I have watched the business grow  
9 from a small part-time occasional business where the plane was in a hangar  
10 attached to the home to a full-time international business with a large hangar not  
11 attached to the home for training, multiple aircraft and pilots flying for  
12 compensation, numerous daily flights and clients increasing vehicular traffic on  
13 our private roads, property of neighbors and wear and tear on our airstrip. The  
14 business through questionable prior statements to our past BODs has said they  
15 have FAA waivers and approvals; flights were free so not "commercial" and that  
16 they have adequate insurance for their operation. In reality, according to the FAA,  
17 the only waiver they had was for the aerobatic practice area (APA). We found  
18 that commercial insurance companies will not insure wing walking due to the high  
19 risk and they have put our Association into a potential severe liability in the case  
20 of a wrongful injury or death lawsuit. The FAA does not approve wing walking  
21 except for the rare instance of a sanctioned airshow performance by experienced  
22 professionals. Flights paid for by clients similar to this for flightseeing in other  
23 general aviation or antique aircraft are governed under the FAA 91.147 which  
24 require a FAA Letter of Authorization (LOA) and includes approval of the airport  
25 authority, a drug and alcohol testing program, 100 hour aircraft inspections and  
26 documented paperwork among other requirements. Mr. Mason has fenagled his  
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1 way around this by saying the flights are free and the client only pays for the  
2 training. Who would pay \$700 to \$1000 to practice climbing in and out of the  
3 front seat of a biplane without of an included flight?

- 4
- 5 5. On January 20, 2022, I attended a meeting of pilots who use the BRF airstrip and  
6 some Board members at Mark Long's hangar. During that meeting we discussed the  
7 huge profitability of MWWA based upon the number of flights and fees paid by  
8 customers which to several of us demonstrated that the MWWA's use of the BRF  
9 airstrip was really "commercial" in nature and not what Mike Mason had represented  
10 it to be.
- 11
- 12 6. We also questioned whether the FAA approved of wing walking. I was tasked with  
13 another BOD member, Gunar Clem, to writing to the FAA about the nature of the  
14 MWWA operations ("commercial" versus "noncommercial") and whether the FAA  
15 approved of wing-walking. Attached as Exhibit A is a true and correct copy of this  
16 letter of inquiry.
- 17
- 18 7. In March 2022 through questions to Roger Nicely at the Seattle Flight Standards  
19 District Office via email we learned that that wing walking is not approved by the  
20 FAA and that commercial operations are governed FAA part 135, a different set of  
21 FAA rules.
- 22
- 23 8. After the BOD directed that a Cease and Desist letter be sent to the Masons to stop  
24 using the BRF airstrip for MWAA Mike Mason was seen to use his yard and that of a  
25 neighbor to take off for a MWAA flight.
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1 9. Mark Long and I wanted to find a way to work things out with the Masons that would  
2 bring them into compliance with the Declaration. The BOD made several overtures at  
3 settlement in the spring of 2022, but the Masons rejected all of them but proposed no  
4 alternatives.  
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6 I verify under penalty of perjury under the laws of the State of Washington that the foregoing  
7 statements are true and correct,

8 Executed this 24 day of August 2022 at Sequim, Washington.



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10 David Woodcock  
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# EXHIBIT A

Roger Nicely  
Manager, Seattle FSDO

David Woodcock  
P.O. Box 3713  
Sequim, WA 98382  
January 21, 2022

As a pilot and member of the Blue Ribbon Farms Property Owners Association (BRF POA) Board of Directors I have been asked to write you for clarification regarding commercial aircraft operations at our private residential airstrip WN29. This is with regards to the Mason Wing Walking Academy (MWWA).

As we understand it, the MWWA charges a fee of \$800 - \$1000 for a morning ground school where clients are shown how to get out of the front cockpit of the Stearman aircraft and up onto the top wing with the body support and safety belt. Once practiced, the afternoon 20 min "thrill flight" in the aerobatic area west of our airstrip is *free*. The second phase should the client pay extra, involves getting out of the cockpit onto the lower wing and laying on the wooden "javelin" between the flying wires while more maneuvers are performed. All this is available for viewing on the MWWA website: [masonwingwalking.com](http://masonwingwalking.com)

The BRF POA has been told by Mr. Mason that since the flight is free this is not a commercial operation and is therefore allowed under FAA Part 91 and our BRF POA covenants (CC&Rs) which state: "**The use of the airstrip for commercial purposes is not permitted**". Last year in excess of 550 operations were conducted with Stearman aircraft, a Cessna 205 photo plane and a couple additional pilots.

We are concerned about the liability to our property association and individual owners in the event of an accident leading to a wrongful death or injury lawsuit. Mr. Mason has assured previous Boards that he is insured, and his operation is approved by the FAA. In spite of the insurance our association carries, our fear is that a clever attorney could argue that "but for" the BRF POA allowing this activity that is clearly not permitted under the CC&Rs, the accident would not have happened as it did.

Questions: Is this a "commercial aviation business"? Is its operation approved by the FAA? Clients are trained to go as a passenger on an included flight on a specific aircraft that generates income and profit for the business owners. Training alone without the included flight would certainly not be worth the fee charged and likely there would be no business. Safety and potential liability are the concerns of our association members.

Thank you for your clarification of this matter. We would appreciate a response from you with respect to your opinion on this operation. Co-signed:

*David Woodcock*, BRF POA Secretary [huskydrivr@olympen.com](mailto:huskydrivr@olympen.com)

Gunar Clem

*Gunar Clem* BRF POA Treasurer [gunarclem@gmail.com](mailto:gunarclem@gmail.com)

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Plaintiff,

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MICHAEL and MARILYN MASON, and THE MARITAL COMMUNITY COMPOSED THEREOF

Defendants.

No. 22-2-00270-05

DECLARATION OF ANDREW ZACHARIAS IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

ANDREW ZACHARIAS declares:

1. I am over the age of 18 years and have personal knowledge of the facts stated in this declaration and if called on to testify I would competently testify as to the matters stated herein.
2. I am a resident of the Blue Ribbons Farms ("BRF") subdivision in Sequim, Washington and a member of the plaintiff Blue Ribbons Farms Property Owners' Association. ("Association"). I am the current vice-chair of the Board of Directors ("BOD") of the Association, assuming this position as of January 2022.

DECLARATION OF ANDREW ZACHARIAS IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
Everett, WA. 98203

- 1 3. I have read the Declaration of Covenants, Conditions and Restrictions that apply to  
2 the BRF subdivision. (“Declaration”), Attachment A to the Amended Complaint  
3 and am familiar with its restrictions against using the BRF airstrip for a commercial  
4 purpose and operating a home business, that must be conducted within the confines  
5 of the residential structure and not overtly demonstrate the presence of a commercial  
6 enterprise (e.g. increased traffic, non-residence parking, customers milling about  
7 outside the residence, etc).
- 8 4. I am aware of the activities conducted by the Mason Wing Walking Academy  
9 (“MWWA”), a business owned by Mike and Marilyn Mason and operated outside of  
10 their residence at 61 Greywolf Air Ct. within BRF. I live next door to Mike and  
11 Marilyn Mason and am in a position to personally observe how they conduct the  
12 MWWA. It has not been conducted within the Mason residence and has increased  
13 traffic within BRF.
- 14 5. This is what I have observed about the MWWA’s operations: The typical summer  
15 day for MWWA starts at around 8:30 a.m. when wing-walking students first show  
16 up. On such a day, between four to six student vehicles, with up to seven students,  
17 park on the property. Between three to five MWWA vehicles are also parked there.  
18 Three of the MWWA airplanes are kept on the property and were constantly being  
19 shuffled in and out to the runway. The (70 year old) biplanes Mason uses for wing-  
20 walking have large engines that require a long “warm up,” causing them to sit idling  
21 for extended periods each afternoon which adds to the noise. Before Mike Mason  
22 moved the actual flight operations to the Sequim Valley Airport, I continually  
23 witnessed airplanes take off from and land on the BRF airstrip with wing-walking  
24 students
- 25 6. Because MWWA has only one instructor only one student at a time can be trained  
26 on any given aircraft. Prior to the Board of Directors instituting legal action the  
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1 other “waiting” students tended to congregate both inside and outside of the hangar  
2 structure, which always had its door open during the day. Around noon the majority  
3 of students utilize their cars to drive out for lunch and then return for the afternoon  
4 activities, i.e. flights. Depending upon the weather and number of flights, MWWA  
5 students might not leave the Mason property until 7:00 or 8:00 pm.

6 7. Attached as Exhibit A are photos taken from my window that show MWWA’s  
7 activities:

8 8. Sometime in January of 2022 I had Mike Mason over to my house and we talked  
9 about MWWA. BOD Chair Mike Long was also present. In our conversation Mike  
10 Mason acknowledged that the MWWA had more than 560 flights in the previous year.  
11 I know that the MWWA’s advertised rates are \$750 to ride the upper wing and \$985  
12 for a full course of riding the upper and lower wings on a biplane flown by Mike  
13 Mason. Simple math told me that the MWWA produced hundreds of thousands of  
14 dollars in revenue for the Masons.  
15

16 9. On January 20, 2022, I attended a meeting of pilots who use the BRF airstrip and  
17 some Board members at Mark Long’s hangar. During that meeting we discussed the  
18 huge profitability of MWWA based upon the number of flights and fees paid by  
19 customers which to several of us demonstrated that the MWWA’s use of the BRF  
20 airstrip was really “commercial” in nature and not what Mike Mason had represented  
21 it to be.  
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23 10. We also questioned whether the FAA approved of wing walking. Two BOD members,  
24 Gunar Clam and Dave Woodcock sent inquiries to the FAA concerning the nature of  
25 the MWWA operations (“commercial” versus “noncommercial”) and whether the  
26 FAA gave specific approval for commercial, wing-walking activities. They wrote the  
27

1 letter of inquiry and reported back that wing walking is not approved by the FAA and  
2 that commercial operations are governed by a different set of FAA rules.

3 11. During March 2022 other members of the Association, such as Corby Somerville,  
4 contacted BOD members with concerns that MWWA may not have liability insurance  
5 which would cover any injury or death from student wing-walkers, This could expose  
6 Association members to liability for allowing wing-walking to occur using the BRF  
7 airstrip or even in BRF. I have (for several years) insured my private aircraft through  
8 BWI Aviation Insurance, located in Corona, CA). I described the MWWA operation  
9 and inquired as to whether or not BWI would insure such a business. I was told that  
10 neither BWI, nor any carrier they were aware of, would do so.  
11

12 12. Mark Long and I wanted to find a way to work things out with the Masons that would  
13 bring them into compliance with the Declaration. The BOD made several overtures at  
14 settlement in the spring of 2022, but the Masons rejected all of them but proposed no  
15 alternatives.  
16

17 I verify under penalty of perjury under the laws of the State of Washington that the foregoing  
18 statements are true and correct,

19 Executed this 24<sup>th</sup> day of August, 2022 at Sequim, Washington.  
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21 \_\_\_\_\_  
22 Andrew Zacharias  
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1 FAA gave specific approval for commercial, wing-walking activities. They wrote the  
2 letter of inquiry and reported back that wing walking is not approved by the FAA and  
3 that commercial operations are governed by a different set of FAA rules.

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22 Andrew Zacharias

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DECLARATION OF ANDREW ZACHARIAS IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

*Endejan Law, LLC*  
5109 23<sup>rd</sup> Ave. W  
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1 **EXHIBIT A**

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9 This is the chase plane that uses the airstrip to photograph students in the air.

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August 2, 2022

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July 7, 2022

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July 9, 2022 Shows practicing outside



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Spectators and students on different days.

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6/23/22



5/30/22

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6/23/22



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5/21/2022 Students and visitors hanging out on the taxiway.  
Recall, Masons paved their portion of the easement which serves as a  
taxiway onto the airfield. Students and planes are often parked on the  
taxiway blocking passage to airfield. Pilots have to divert around them and

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Shows student in front seat, Mike climbing into the back. Also shows the harness they climb up to. They just hang on to the struts on their stomach when they fly just on the lower wing.