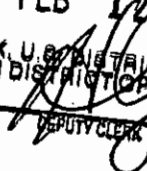


1 Bruce M. Thornton, Esq. (SBN 72933)
2 GEMMILL, THORNTON & BALDRIDGE, LLP
3 5670 Wilshire Boulevard, Suite 1500
4 Los Angeles, California 90036
5 Telephone: (323) 931-1093
6 Facsimile: (323) 931-1095

7 Attorneys for Petitioner
8 HOME BUYERS WARRANTY CORPORATION

FILED
FEB 1 2008
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 HOME BUYERS WARRANTY CORPORATION,

12 Petitioner,

13 vs.

14 CESAR MARIN and LOURDES MARIN,

15 Respondents.

CASE NO.: 1:07-CV-01678-AWI-GSA

NOTICE OF DISMISSAL PURSUANT TO
RULE 41(a)(1) OF THE FEDERAL
RULES OF CIVIL PROCEDURE

Home Buyers Warranty Corporation v. Marin et al

Doc. 16

17 No Defendant/Respondent has made an appearance in this action. Accordingly, pursuant
18 to Rule 41(a)(1) of the Federal Rules of Civil Procedure, and on the basis of a Stipulation filed in
19 *Cesar Marin, et al. v. Workman Brothers Development Co., Inc., et. al.*, Fresno County Superior
20 Court Case No. 07CECG03269 AMC (a true and correct copy of which is attached hereto as
21 Exhibit A), Plaintiff/Petitioner Home Buyers Warranty Corporation herein dismisses its
22 Complaint/Petition to Compel Arbitration and Stay State Action without prejudice.

23 DATED: January 31, 2008 GEMMILL, THORNTON & BALDRIDGE

24
25 By: 
26 BRUCE M. THORNTON
27 Attorneys for Petitioner HOME BUYERS WARRANTY CORPORATION

28 It is so Ordered. Dated: 2-1-08


United States District Judge

EXHIBIT A

1 Bruce M. Thornton, Esq. (SBN 72933)
2 Carlos V. Yguico, Esq. (SBN 132180)
3 GEMMILL, THORNTON & BALDRIDGE, LLP
4 5670 Wilshire Boulevard, Suite 1500
Los Angeles, California 90036
Telephone: (323) 931-1093
Facsimile: (323) 931-1095

5 Attorneys for Defendant
6 HOME BUYERS WARRANTY CORPORATION

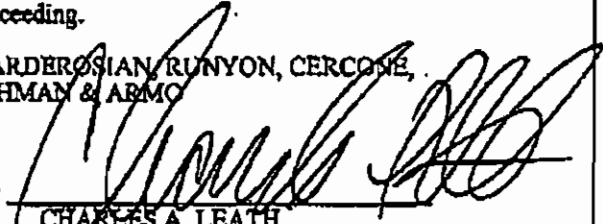
7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF FRESNO

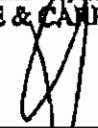
11	CESAR MARIN and LOURDES MARIN,	)	Case No. 07CECG03269 AMC
12	Plaintiffs,	)	Complaint filed: 08/06/03
13	vs.	)	Case Assigned To:
14	WORKMAN BROTHERS	)	Hon. Adolfo M. Corona
15	DEVELOPMENT CO., INC., a California	)	Department 52
16	Corporation; HOME BUYERS	)	STIPULATION TO ARBITRATE ALL
17	WARRANTY CORPORATION dba in	)	CLAIMS AND STAY ACTION
18	California as 2-10 HOME BUYERS	)	Discovery Cut-off: N/A
19	WARRANTY CORPORATION; and	)	Motion Cut-off: N/A
20	DOES 1 through 300, inclusive,	)	Trial Date: None
21	Defendants.)	

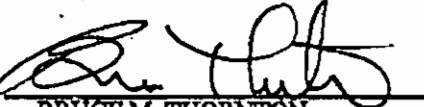
21 The undersigned, Plaintiffs Cesar Marin and Lourdes Marin, Defendant Workman
22 Brothers Development Company, and Defendant Home Buyers Warranty Corporation, hereby
23 stipulate as follows:

- 24 1. All claims of Plaintiffs pleaded in their Complaint herein shall be submitted to
25 binding arbitration pursuant to and accordance with the arbitration agreement contained in the
26 HBW Warranty attached as Exhibit "B" to Plaintiffs' Complaint.
- 27 2. Said arbitration shall be conducted by Construction Arbitration Services, Inc., in
28 accordance with its applicable arbitration rules.

1 3. The parties shall request the Court to stay further proceedings in this action
2 pending conclusion of the arbitration proceeding.

3 DATED: December 18 2007 MARDEROSIAN, RUNYON, CERCOSE,
4 LEHMAN & ARMO
5 
6 By: _____
7 CHARLES A. LEATH
8 Attorneys for Plaintiffs CESAR MARIN and LOURDES
9 MARIN

10 ⁵⁶⁻⁰⁰⁰⁰
11 DATED: December 23, 2007 McCORMICK, BARSTOW, SHEPPARD,
12 WAYTE & CARLUTH
13 
14 By: _____
15 KURT F. VOTE
16 Attorneys for Defendant WORKMAN BROTHERS
17 DEVELOPMENT COMPANY

18 ^{Jan 26}
19 DATED: December 26, 2007 GEMMILL, THORNTON & BALDRIDGE
20 
21 By: _____
22 BRUCE M. THORNTON
23 CARLOS V. YGUICO
24 Attorneys for Defendant HOME BUYERS WARRANTY
25 CORPORATION
26
27
28

PROOF OF SERVICE

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

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

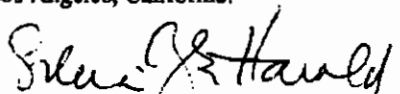
I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 5670 Wilshire Boulevard, Suite 1500, Los Angeles, California 90036.

On January 31, 2008, I served the foregoing document described as: **NOTICE OF DISMISSAL PURSUANT TO RULE 41(a)(1) OF THE FEDERAL RULES OF CIVIL PROCEDURE** on all interested parties of record in this action by placing [X] a true copy [] the original thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

- BY FACSIMILE:** The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a record of the transmission.
- BY MAIL:** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, mail would be deposited with the United States postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- BY OVERNIGHT DELIVERY:** I deposited such envelope in a box or facility regularly maintained by the express service carrier in an envelope or package designated by the express service carrier with delivery fees provided for.
- (State)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- (Federal)** I declare that I am employed in the office of a member of the bar of this Court at whose direction this service was made.

Executed this 31st day of January, 2008, at Los Angeles, California.


SILVIA ZORZOLI HAROLD, Declarant

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

SERVICE LIST

Cesar Marin
1811 Zozaya Street
Firebaugh, California 93622

Lourdes Marin
1811 Zozaya Street
Firebaugh, California 93622

COURTESY COPIES:

Charles A. Leath, Esq.
ROOT & LINDER
1300 W Shaw Ave Ste 3A
Fresno CA 93711
Tel. (559) 244-0740 / Fax. (559) 244-0741
Attys for Cesar Marin and Lourdes Marin
Fresno County Superior Court Case No. 07CECG032699 AMC

Kurt F. Vote, Esq.
MCCORMICK BARSTOW SHEPPARD
WAYTE & CARRUTH
5 River Park Pl E
Fresno CA 93720
Tel. (559) 433-1300/Fax. (559) 433-2300
Attys for Defendant Workman Bros. Dev. Co., Inc.
Fresno County Superior Court Case No. 07CECG032699 AMC