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(SPACE BELOW FOR FILING STAMP ONLY)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FOX HOLLOW OF TURLOCK
OWNERS' ASSOCIATION, a California
Nonprofit Mutual Benefit Corporation,

Plaintiff,

v.

RICHARD SINCLAIR, an individual; et
al.,

Defendants.

Case No. CIV-F-03-5439 OWW DLB

(Consolidated with 1:03-CV-5774 OWW SMS)
and Stanislaus County Superior Court Case No.
322675

**ORDER RE: MOTION TO WITHDRAW
AS COUNSEL; COUNTER-MOTION FOR
LEAVE TO FILE CONSOLIDATED
AMENDED AND SUPPLEMENTAL
COMPLAINT, PROPOSED
SUBSTITUTION OF ATTORNEY AND *EX
PARTE* APPLICATIONS TO CONTINUE
ALL DATES INCLUDING TRIAL DATE;**

**AND ORDER TO SHOW CAUSE TO
INDIVIDUAL DEFENDANTS RE SAME**

AND CONSOLIDATED ACTIONS

Date: March 1, 2010
Time: 11:00 a.m.
Location: Courtroom No. 3
U.S. District Court
2500 Tulare Street
Fresno, CA 93721

Hon. Oliver W. Wanger

The following matters came on for hearing before the Court, the Honorable Oliver W. Wanger presiding, on January 25, 2010: Motion for Leave to Withdraw as Counsel by Daniel S. Truax, Lisa Blanco Jimenez, and Neumiller & Beardslee (collectively "Neumiller"), Docket #

ORDER

1 333 (“Motion to Withdraw); Plaintiffs’ and Defendants’ Counter-Motion for Leave to File
2 Consolidated Amended and Supplemental Complaint, Docket # 337 (“Motion for Leave to
3 Amend”); lodged Substitution of Attorney by Richard C. Sinclair, Esq. (“Mr. Sinclair”), Docket
4 #s 339, 347 and 353 (“Proposed Substitution”); and the *Ex Parte* Applications to continue all
5 dates including trial date, filed by Mr. Sinclair, Docket #s 334, and 340 (“Applications to
6 Continue”).

7 Lisa Blanco Jimenez and Neumiller Beardslee appeared on behalf of Defendants
8 RICHARD SINCLAIR (“Mr. Sinclair”), BRANDON SINCLAIR (“Brandon Sinclair”),
9 GREGORY MAUCHLEY (“Mr. Mauchley”), MAUCTRST, L.L.C. (“Mauctrst LLC”),
10 CAPSTONE TRUST, STANLEY FLAKE as TRUSTEE (“Capstone Trust”), LAIRTRUST,
11 L.L.C. (“Lairtrust LLC”), and CAPSTONE, L.L.C. (“Capstone LLC”) in case number CIV-F-03-
12 5439 OWW DLB (the “Fox Hollow Action”), Defendants Mauctrst LLC, Mr. Mauchley, DIANA
13 MAUCHLEY (“Mrs. Mauchley”), Capstone LLC, Capstone Trust, Brandon Sinclair, Lairtrust
14 LLC, Mr. Sinclair, DEBORAH A. SINCLAIR (“Mrs. Sinclair”), SE, a California Corporation
15 (“SE”), STANLEY M. FLAKE (“Mr. Flake”), STANLEY M. FLAKE, Trustee, F. HANSE
16 TRUST, udt dated February 2, 1993 (“Hanse Trust”), and STANLEY M. FLAKE, Trustee, THE
17 JULIE INSURANCE TRUST, udt dated January 29, 1993 (“Julie Trust”) in case number 1:03-
18 CV-5774 OWW SMS (the “CEMG Action”) that is consolidated with the Fox Hollow Action,
19 and Plaintiffs Lairtrust LLC, Mauctrst LLC and Capstone LLC in removed Stanislaus County
20 Superior Court, case number 332675 (the “Lairtrust Action”) that is consolidated with the Fox
21 Hollow Action, (collectively the “Defendants”).

22 D. Greg Durbin and McCormick, Barstow, Sheppard, Wayte & Carruth LLP, appeared on
23 behalf of Plaintiff FOX HOLLOW OF TURLOCK OWNERS ASSOCIATION (“Fox Hollow
24 HOA”) in the Fox Hollow Action and Plaintiff CALIFORNIA EQUITY MANAGEMENT
25 GROUP, INC. (“CEMG”) in the CEMG Action and Defendants Fox Hollow, CEMG and
26 ANDREW KATAKIS in the Lairtrust Action (collectively the “Plaintiffs”).

27 The Court having considered such matters, having issued its tentative decisions at the
28 hearing , and having heard from counsel for the parties herein, and good cause appearing,

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IT IS HEREBY ORDERED THAT:

1. The non-individual Defendants, including Mautrst LLC, Capstone Trust, Lairtrust LLC, Capstone LLC, SE, Hanse Trust and Julie Trust, shall obtain replacement counsel who shall appear in this matter prior to March 1, 2010.

2. Mr. Sinclair shall not represent any of the Defendants in the within action other than himself, individually, and other than a non-individual Defendant in which he is and at all times has been the sole owner.

3. Mr. Sinclair shall communicate with Ms. Jimenez forthwith with respect to the withdrawal of counsel by the Neumiller firm and the substitution of new counsel of record on behalf of Defendants.

4. A Status Conference shall be held before the Court on March 1, 2010, at 11:00 a.m., or as soon thereafter as the matter is heard, for the purpose of setting a firm schedule for a final resolution of this case, with Mr. Sinclair being permitted to appear telephonically if he is physically unable to appear in person.

5. The Motion to Withdraw is granted as to Mr. Sinclair individually, without conditions, and otherwise continued to the time and place of the Status Conference on March 1, 2010.

6. The Motion to Amend may be noticed and set for hearing by Plaintiffs for March 1, 2010, at 11:00 a.m., or as soon thereafter as the matter may be heard.

7. Except as provided herein, the Applications to Continue are denied, and no further continuances will be given based upon Mr. Sinclair's condition.

8. The settlement conference set herein for February 12, 2010 at 10:00 a.m., in Courtroom 9, is hereby ordered vacated.

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IT IS HEREBY FURTHER ORDERED THAT:

9. The individual Defendants, including Brandon Sinclair, Mr. Mauchley, Mr. Flake, Mrs. Mauchley and Mrs. Sinclair are each ordered to appear at the hearing before the Court in Courtroom 3 of the United States District Court, Eastern District of California, Fresno Division, at 2500 Tulare Street, Fresno, CA 93721, on March 1, 2010, at 11:00 a.m., or as soon thereafter as the matter is heard, to show cause, if any there be, why they should not be required to engage counsel of their own choosing (other than Mr. Sinclair) to represent their interests in this matter and why a firm schedule for a final resolution of this case should not then and there be adopted.

Dated: February 8, 2010

/s/ OLIVER W. WANGER
United States Senior District Judge