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ALL CITIES REALTY, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ALL CITIES REALTY, INC.

Plaintiff

v.

CF REAL ESTATE LOANS, INC.

Defendant

) Case No: SACV05-615 AHS
) (MLGx)
)
)
) **DECLARATION OF JOSEPH**
) **MINER AND EXHIBITS IN**
) **OPPOSITION TO DEFENDANTS'**
) **MOTION FOR AWARD OF**
) **ATTORNEY'S FEES AND COSTS**
) **OF SUIT AND TERMINATING**
) **SANCTIONS**
)
) Date: February 23, 2009
) Time: 10:00 a.m.
Ctrm: 10-A

AND RELATED COUNTER-CLAIM

1 6. The first appearance filing fee in the State Court action exceeds
2 \$500,000. I questioned whether Re/Max All Cities Realty could afford to pay, or
3 would in fact pay that filing fee as a precondition to its promise to defend and
4 indemnify the agents. This was a subject of some of my commentary in my website.
5 In fact, I suggested to the readership that they consult with their own lawyers before
6 accepting the indemnity agreement. I did this in good faith, hoping that they would
7 obtain unbiased advice which I believed then, and still believe now, would benefit
8 the situation greatly.

9 7. There was nothing “vindictive” about the filing of the State Court action
10 and it is no different than filing charges against all defendants in a crime. This is a
11 civil crime and in our eyes everyone who has been sued is guilty for using the All
12 Cities Realty federal trademark. After Defendant’s discovery response disclaiming
13 the agents, I believed that if the Defendant somehow convinced the jury that the
14 Defendant’s were only liable for a small percentage of the infringement because the
15 agents take the lion’s share of the commissions, I needed to protect myself by suing
16 the agents who also used the mark; I believed I was being prudent as the Todds have
17 been a moving target throughout this litigation. I have no control what their
18 appearance fees are in State court - those are set by the State. We also chose to file
19 the state case because we believed we could have the case heard faster. Since it is
20 now February 2009, and this case was filed in federal court June 2005 – 44 months
21 ago – that would have certainly been the situation if the State case had not been
22 stayed.

23 8. During the course of this litigation, I reviewed the Re/Max All Cities
24 Realty web site on a regular basis. Hollymax and Commbroker were never
25 separately identified as different legal entities. They appeared as offices listed
26 together/comingled with the other “offices” of Re/Max All Cities Realty on the
27 Re/Max All Cities Realty website when in fact they were separate California
28 Corporations. I had no reason (nor would anyone else) to believe Ms. Todd was

1 comingling three different corporations and agents from three different distinct
2 corporations all under one fictitious name. While the DBA of Re/Max All Cities
3 Realty was under the name of the main corporation (CF Real Estate Loans), it was
4 probably illegal as Hollymax and Commbroker had NO real estate license to sell real
5 estate using Re/Max All Cities Realty name. It took some real detective work to
6 figure it all out as they did not provide us with discovery. Specifically, Hollymax
7 was listed as the Hollywood office and Commbroker was listed as two seperate
8 Commercial Real Estate offices under the Re/Max All Cities Realty umbrella. The
9 agents of all three corporations were also comingled and alphabetically listed with
10 photos directly under the All Cities Realty® logo under their newly adopted All
11 Cities Realty “umbrella name” chosen by the Defendant. The identity of what
12 corporation each agent truly worked for was “hidden” from the public. I did not
13 discover their separate existence until late 2007 or early 2008 soon before the third
14 lawsuit was filed. Again, the filing of the Hollymax action was an attempt to bring
15 all responsible parties before the Court. **There were never threats made to**
16 **Defendant prior to the filing of this lawsuit that they should settle or it would be**
17 **filed.** In fact, I gave them no warning whatsoever that this action was going to be
18 filed. I just did it.

19 9. In deciding who to name as defendants in the Hollymax action, I
20 attempted to compare the list of defendants in the State Court action to the list of
21 agents on the Hollymax and Commbroker web pages existing on the Re/Max All
22 Cities Realty site to avoid duplication. Those additional agents were named. In
23 addition, it was decided to name the brokers of record for the companies since they
24 are responsible for all real estate related activity of the companies, and certainly the
25 trade name under which the company does business falls within that ambit
26 (especially since the Department of Real Estate requires that the broker of record
27 sign off on the name before it is used).

28 ///

1 **Reasons why the Remaxlawsuits.com Web Site was Created**

2 10. My web site was created in late 2006 as a public service to the agents
3 (who are my colleagues in the same profession) who were being misinformed by
4 Kelli Todd, Holly Thomas, David Sandelands, and the others representing the
5 Defendants in this action. For this reason, I placed conspicuous messages and
6 disclaimers throughout the web site as I described below.

7 11. A second and equally important reason the web site was also created
8 was to allow All Cities Realty to combat the massive confusion that was created in
9 the marketplace by Defendant flooding the internet with Re/Max All Cities Realty
10 web pages, links, advertisements and the like. Plaintiff's market recognition was
11 reduced from prominent to zero because the public believed that Plaintiff's All Cities
12 Realty was the same company as Defendant's Re/Max All Cities Realty. It was
13 David's only chance to combat Goliath and attempt to survive.

14 12. I will attempt to address the accusations that appear in the moving
15 papers.

16 **No Windfall Settlement has been Sought or Demanded**

17 13. On page 1 of Defendant's points and authorities, Mr. Sandeland's first
18 accusation is that I or All Cities Realty, Inc.® is seeking a "windfall settlement"
19 from this action. Mr. Sandelands repeats this incorrect repulsive and misleading
20 statement to the court over and over again. Nothing could be further from the truth.
21 The truth started in early 2003 when I requested Ms. Todd, based on my federal
22 trademark of the name All Cities Realty®, to cease and desist using the name. **In**
23 **my multiple emails to her, her father, the corporate attorney, and their IT**
24 **manager, I did not ask for a single penny.** No payment was ever requested or
25 demanded by me or All Cities Realty, Inc. prior to the filing of this lawsuit. I simply
26 asked Mr. Bob Todd and Ms. Kelli Todd to stop using my name; if they had, there
27 would have been no lawsuit and no payments.

28 14. Besides the several emails from me, to make certain that Ms. Todd took

1 my cease and desist demand seriously, I had two separate attorneys each write Ms.
2 Todd separate letters requesting that they cease and desist using my registered
3 federal trademark. For two full years Ms. Todd strung me along demanding I license
4 the name to her. Ms. Todd eventually refused to voluntarily give up my trademark. I
5 was forced to sue in mid 2005 to protect the mark.

6 15. Following this, each and every time she made settlement overtures, she
7 demanding that I allow her to continue to use the trademark for eternity. Her
8 company's 14 offices are centrally located in my company's initial target area –
9 Southern California. Allowing her to keep the name under those circumstances was
10 out of the question.

11 16. During the litigation and throughout the greatest real estate boom in
12 recent history, Ms. Todd's companies and agents continuously used my name,
13 flooded the internet with more than 20,000 pages of their advertising using my
14 trademark which had the practical effect of rendering my advertising ineffective by
15 diluting it, and often burying my advertising into obscurity on the Internet. Ms. Todd
16 made it impossible for me to promote my business. I know that people were
17 confused that our companies were the same because I received many
18 communications from people where the confusion was apparent, including many
19 writings intended for Ms. Todd's companies that were directed to me; some of these
20 were from her own employees! My web inquiries practically vanished when she
21 began to use the mark and when they erected their new website in 2005 using
22 Re/Max All Cities Realty - my leads completely vanished. While in the very
23 beginning of their infringement my damages were modest and I was willing to
24 forego them if she abandoned my name, that situation did not remain static in the
25 ensuing years as my damages grew exponentially.

26 17. During the litigation, we had several discussions about settlement. Each
27 time her monetary offers were far below my litigation costs and were non-starters
28 and disingenuous. The lone exception was when we conducted a mediation using

1 retired Judge Tevrizian, who brokered an offer and who told me to accept nothing
2 less. We had reached an agreement in principle; however, subsequently, Ms. Todd
3 reneged. The litigation continued.

4 18. This mediation took place on September 28, 2007. At that time, the
5 trial date was scheduled for January 2008. Ms. Todd's group threatened that if we
6 did not settle at that time, the defendant would use the money that had been allocated
7 towards settlement to change their name and that this would negate our claims – so
8 we had better accept whatever they offered. This threat (among others made by
9 them as I detail below) was not effective.

10 19. So after about five years of using my name, Ms. Todd finally changed
11 her company name from Re/Max All Cities Realty to Re/Max Marquee Partners.
12 During this name change process, the Court continued the trial date from January
13 2008 to July 2008. The trial was continued again to March 2009. So now, because
14 of these lengthy continuances, which have harmed me more than I care to describe in
15 this declaration, Defendant's name change, done for purposes of litigation tactics, is
16 less immediate in relation to the trial.

17 20. Towards the end of Defendant's papers, they focus on my December
18 10, 2007 email which they mischaracterize as a threat to file the Hollymax action. It
19 was the end of two months of continuing discussions to attempt to settle the matter
20 following the September 2007 mediation. It was in response to an email from Kelli
21 Todd dated December 6, 2008 in which she makes threats and mocked me. (It is
22 ironic but not surprising that Mr. Sandelands chooses to focus on an email string
23 where Defendant commits litigation abuse through threats and argues an alternate
24 reality by accusing me of such tactics.) Although almost four pages of text are
25 redacted from Defendant's Ex. E and they use only two paragraphs from the email,
26 nothing in those two paragraphs contains a threat to file another action and I never
27 made such a threat. So the Court can view the communications in full and proper
28 context (if it so desires) that email string containing both emails is attached hereto as

1 Exhibit 1.

2 21. I do note that even though Defendant announced the name change in
3 November or December 2007, it took almost a year before it became somewhat final.
4 Ms. Todd continued to use the name on her commercial brokerage site until
5 September 2008, almost a year after she swore in writing to the court she had
6 abandoned it and Mr. Sandelands echoed those false statements in writing to Judge
7 Carney. Even with this, remnants of her use of the Re/Max All Cities Realty name
8 continue to abound on the Internet.

9 22. Additionally, Ms. Todd has also seized my escrow company name, "All
10 Cities Escrow." The All Cities Escrow name was not federally trademarked. Ms.
11 Todd continues to use the escrow name today. As I discuss below, her family
12 company "Re/Max Beach Cities Escrow" had also been involved in the federal loan
13 fraud committed by her father Bob Todd, so that company name was changed as
14 well – she chose All Cities Escrow. Effectively she seized both my names causing
15 significant confusion.

16 23. Defendant's use of our federal trademark, our name, and our house
17 mark on the Internet has devastated the All Cities Realty business. Ms. Todd, who
18 consciously seized the All Cities Realty® trademark, has done at least \$20 BILLION
19 in business using the All Cities Realty name, per her own public admissions. As an
20 example of their sales volume, I attach as Exhibit 2 a copy of Defendant's Summer
21 2006 Newsletter (which they did not produce in discovery but I obtained anyway).
22 On the last page, they admit their sales volume from January to April 2006 was more
23 than \$1 Billion. Extrapolating those figures, 2006 sales would have been
24 approximately \$3.5 Billion. Attached hereto as Exhibit 3 is a copy of Realtor
25 Magazine's published sales figures for the top real estate companies for 2003. These
26 figures are supplied by the companies themselves. Re/Max All Cities Realty is listed
27 as the 27th largest national company with sales figures of \$2.693 Billion for 2002.

28 24. Interestingly, in the newsletter (Ex. 2) on page 2, there is a lengthy

1 article about the benefits of trademarks. It appears that Defendant was acutely aware
2 of these issues, yet disregarded company policy by abusing my trademark.

3 25. At this point I do expect to fully recover whatever a jury will award, but
4 I NEVER set out seeking a windfall or windfall settlement or even to set foot in a
5 courtroom. Mr. Sandeland's comments are fabricated, totally untrue, unwarranted,
6 and solely intended to grab the court's attention and prejudice the court against me.

7 **A few Examples of Defendant's Abuses in Litigation and Otherwise**

8 26. While on page 1 of Defendant's points and authorities, Mr. Sandelands
9 is loose with his consistent unwarranted accusations of litigation abuse by Plaintiff,
10 the truth is that Defendant is the abuser here. Mr. Sandelands fails to mention the
11 litigation and financial abuse I have suffered as a small company. A Goliath
12 company intentionally seized my federally trademarked name, had no intentions of
13 letting the name go, and forced me to spend hundreds of thousands of dollars
14 fighting for my registered trademark and losing six of the potentially most
15 productive years of my life waging a battle against one the world's largest real estate
16 companies. Is that not litigation abuse? It's certainly abusive litigation. During this
17 litigation, Mr. Sandelands has refused to produce discovery, refused to produce
18 witnesses for deposition and has papered the court with motion after motion after
19 motion; each time ringing the financial bells of the litigation cash register for himself
20 and his firm.

21 27. Consider these facts below, and ponder who is the real abuser of
22 litigation:

- 23 ➤ One of the world's largest real estate companies seizes my company's
24 federally trademarked name, immediately obtains 14 DBAs for various
25 offices, chooses the EXACT SAME domain name with a "NET" ending
26 (www.allcitiesrealty.net) and then blasts 20,000 pages on the internet to
27 promote their new "pirated" name in every conceivable way. (Ms. Todd
28 not only took my real estate company name but also took my escrow

1 company name at the same time – All Cities Escrow – as mentioned
2 above and did the exact same thing with “allcitiesescrow.net” vs. my
3 “allcitiesescrow.com”)

- 4 ➤ I notify Ms. Kelli Todd (CEO), Mr. Bob Todd (the real CEO), Mr.
5 Eleniak (broker of record and in house counsel), Ms. Robinson (in
6 management) and Mr. Stewart Hoffman (head of IP) and initially get no
7 response.
- 8 ➤ I then have two attorneys, in writing, request that Ms. Todd and her
9 Remax cease and desist using my All Cities Realty name based on my
10 federal trademark. At the same time my business is dwindling because
11 of their seizure of my Internet advertising and my resulting lack of
12 clientele.
- 13 ➤ Ms. Todd’s corporate attorney, Mr. Eleniak, lectures my trademark
14 attorney basically laughing at him, when he hears that that I plan to sue
15 them (Remax).
- 16 ➤ I am then forced to fight them over my trademark, having to dedicate
17 my precious resources and personal time to the litigation rather than
18 building my business, making sales, and serving any clientele.
- 19 ➤ We provide Remax with thousands of documents, emails, instances of
20 confusion, and copies of their websites for discovery – a total of 5 CD’s
21 and 3 DVDs and hard copies as well. (Mr. Sandelands, after asking for
22 “Everything”, then tells the Court I have given him too much evidence
23 and he can’t read it all!)
- 24 ➤ Ms. Todd, via Mr. Sandelands, provides NOTHING in discovery to us
25 but their roster of agents, some advertising, and a franchise agreement.
26 NO emails, no memos, no copies of internal trademark searches, no
27 office minutes, no internal bulletins, NO DISCOVERY AS REQUIRED
28 BY LAW! Not a single shred of truthful hard copy meaningful

1 evidence!

- 2 ➤ Mr. Sandelands then fires up the litigation cash register ringing the bell
3 at an alarming rate (for both his client and I) apparently trying to
4 bankrupt me knowing that I am just a small company. His tactics are
5 delay, evade, don't produce discovery or depositions. He then papers
6 the court with motion after motion after motion. His tactics do not work
7 and I don't go away.
- 8 ➤ We ask for DEPOSTIONS. Mr. Sandelands REFUSES to produce
9 people to depose and the documents they were to produce. No
10 depositions are able to be taken.
- 11 ➤ In almost every motion sent to the Court by Ms. Todd and Mr.
12 Sandelands untruths are stated. Every time we are forced to spend
13 countless hours hunting the documents to locate the truth, taking
14 considerable time and money, and refute Ms. Todd's and Mr.
15 Sandeland's written testimony.
- 16 ➤ Mr. Sandelands boldly then claims to the court I have "abandoned the
17 name" All Cities Realty. The truth is that I have my office, my website,
18 my phones and email are working, I am a broker with a valid license,
19 my business license is valid, and we are open for business. He has not a
20 shred of evidence to prove his arbitrary and false allegations – it was
21 just a bold assertion to the court (we could have done the same thing as
22 Kelli Todd has no broker license and NO MLS record and has never
23 sold a single home to a client).¹ His fabricated statements to the court
24

25
26 ¹ See Exhibit 4, an article in FrogPond, an internet magazine, in which Kelli Todd is
27 interviewed. The article was published in May 2008 (see the top of page 1 on the
28 right side). On page 3 she states that she has never bought or sold real estate for
anyone other than herself. She also falsely states that she has been licensed all
along. See Exhibit 5, the Department of Real Estate print out on Kelli Todd showing

1 continue to this day. To me this is a complete circus. Can an attorney
2 really act this way?

- 3 ➤ Then for no purpose other than intimidation Ms. Todd files a lawsuit
4 against me and MY WIFE!!! It is another scare tactic that did not work
5 and they are so desperate NOT to produce any discovery they dropped
6 the lawsuit in just two weeks after we propounded extensive discovery!
7 (See the Declaration of Jeffrey F. Sax for the details of this fiasco.)
- 8 ➤ Holly Thomas, their own in house counsel, calls me on the telephone (I
9 have the date and time noted) and tells me that they received and
10 OPENED US MAIL meant for me. She then tells me she will send it to
11 me and NEVER sends the mail! She is deliberately concealing
12 evidence.
- 13 ➤ Their discovery tactics forced me to literally spend 1000's of hours in
14 personal time (foregoing income) like a detective putting this puzzle
15 together so that I can get justice. Undaunted, I did what it took to
16 unearth what would be needed in court.
- 17 ➤ Because I can see the independent contractors are going to be hurt by
18 this, I try to honestly WARN the independent contractor agents of the
19 truth and how to protect themselves, (since apparently the owners and
20 their own Broker will not), who they are really working for, and the
21 reality of what this could do to them.
- 22 ➤ Ms. Todd also sent her "boyfriend" Loren Wallace of Lone Wolf down
23 to my office to spy on me. He is one of Re/Max International's
24 LARGEST software contractors and also Kelli Todd's boyfriend. He
25 then wrote a completely false declaration to the State Court failing to
26 mention that he is both Kelli Todd's lover and a prime software

27
28 her real estate license expired as of 2006. Even in an innocuous setting, she cannot
stop herself from lying.

1 contractor for Re/Max International. Since that time I have been forced
 2 to keep my front business door locked as I don't know who is legitimate
 3 and who is spying on me and my operation. (Interestingly, Ms. Todd is
 4 selling her boyfriend "Loren" and her agents furniture from her
 5 bankrupt company and then not paying her creditors – see the
 6 bankruptcy filing.)

- 7 ➤ When Ms. Todd initially denied responsibility for the independent
 8 contractors, I was forced to fund two other lawsuits attempting to cover
 9 all sources of infringement.
- 10 ➤ Now I am being called the abuser! THIS TAKES THE CAKE! These
 11 accusations by Mr. Sandelands are just absurd. This is nothing more
 12 than the murderer's attorney blaming the victim.
- 13 ➤ If there is litigation abuse in this court case Remax and Mr. Sandelands
 14 are the guilty parties - they have consciously performed AGAINST ME,
 15 each and every one of the acts in the cases they have listed in an attempt
 16 to blame me as an abuser! It's just another example of Mr. Sandelands
 17 making black look white.
- 18 ➤ If I had the extra funds to spend on the motions I would accuse them of
 19 Litigation Abuse because they are the guilty party not me. They have
 20 abused our precious legal system from day number one!

21 **My Production of the CDs and DVDs**

22 28. On page 1 of Defendant's papers, Mr. Sandelands accuses me of
 23 litigation abuse by producing the CDs and DVDs. It is incomprehensible for me to
 24 believe Mr. Sandelands is not playing dumb hoping for the court's pity regarding the
 25 CDs and DVDs. First, the man is an aerospace engineer with a degree in mechanical
 26 engineering. Second, on the Cislo & Thomas website he claims to be an intellectual
 27 property attorney. He earned his JD in 1998 so we must assume he was using
 28 computers and the Internet while he was earning his degree. The second lead

1 attorney, Peter Veregge, claims he is adept in computer programming arts. If they
2 had the desire to “read” the CDs files they could have ... or they could have used
3 Stewart Hoffman, Remax’s IT professional, who has published hundreds of
4 instructional lessons for the Remax agents and who Remax designated as an expert
5 witness in this action. They never asked us (me) for help in any way. I would have
6 been happy to give them a presentation if they had asked. Anyone with computer
7 programming arts background would know what an “index.htm or index.html” file
8 is. All they had to do to find out what was on the disk was to look. This situation is
9 like us giving them a TV and them telling the court they never turned it on and
10 changed the channels. My index of the CDs listed the files. With Mr. Veregge’s
11 background he should have instantly known, among other files, that websites existed
12 on the disks. I still would be happy to set a few hours aside and help them with the
13 disks if they are indeed as dumbfounded as they claim.

14 (Below is taken from Cislo & Thomas’ website)

15 “Mr. Veregge has extensive hands-on experience in litigating all
16 aspects of patent, trademark, trade dress, and trade secret cases, as
17 well as general litigation, in both state and federal courts, as well as an
18 opposition proceeding before the Trademark Trial and Appeal Board.
19 He is also experienced in analyzing and procuring patents in the
20 mechanical, electrical, **and computer programming arts.**

21 **Additional Facts Concerning the Creation of my Blog**

22 29. One of the reasons that the “blog” www.remaxlawlawsuits.com was
23 created was because I had found out directly, face to face, from agents that were
24 served with the State Court lawsuit that no person at Re/Max, including Kelli Todd
25 or Holly Thomas had ever notified them (or any of the other 700 agents using the
26 ALL CITIES REALTY name) that there was a pending federal trademark lawsuit
27 regarding my trademark. (After the State Court lawsuit was filed in July 2006, they
28 notified the agents of the pending infringement action per the State Court filings, but

1 did not do so accurately.) Every agent I spoke with was totally unaware that they
2 were doing business under a registered trademark of a competing local company. At
3 that point I believed it was important that a source of information be available that
4 updated the agents and the public about the lawsuit.

5 30. When the State lawsuit was filed, approximately 850 agents were
6 served at the same time by personally delivering the summons and complaint, each
7 in separate envelopes, to Ms. Todd's offices. They were brought in to Ms. Todd's
8 legal department by the process server and accepted by Gina Smearer, her paralegal.
9 (I watched as the process server carted the boxes to the door.) I later found out that
10 these 850+ complaints (separately labeled with each agent's name) were never
11 distributed to the agents. The separate agents were never notified of their own
12 lawsuits and service! I have talked to many of the former agents on the "agent's
13 served list" of my website. They call because they find out they have been sued
14 online. Each and every one of them claim they have NEVER been served with their
15 documents even though the documents were delivered by my process server directly
16 to the legal office of Remax and accepted by their own paralegal Gina Smearer – we
17 have the service papers to prove they were all served and Ms. Smearer's business
18 card that was given to the process server. To make things more abusive, Dan Verdin,
19 the Re/Max VP, attempted to physically force the process server to retrieve all the
20 850 complaints and remove them from the premises. Mr. Verdin blocked the door
21 and physically held the process server. A police report was filed.

22 31. I also found out that Ms. Todd and Ms. Thomas were giving the agents
23 completely false information about me, my company, my trademark, and her
24 legalities regarding their use of my name. This misinformation was blatantly
25 apparent by emails sent to the agents attached by Defendant in various motions (but
26 never produced in discovery) where comments were made to the agents about the
27 issues at hand. Additionally, I found out through various phone calls to me by
28 agents and emails from agents that Kelli Todd was propagating the use of the name

1 telling and consciously encouraging the 700 agents to use the name on their business
2 cards, their websites, their electronic home listings etc. So even during the pendency
3 of this federal lawsuit she intentionally put her 700 agents at risk and all new agents
4 that joined her company during litigation.

5 32. Defendants' and the agent Defendants' use of my business name was
6 destroying All Cities Realty's business and since I had no direct contact with the
7 agents, I wanted to get truthful information out to these independent contractors who
8 are responsible for themselves and their own business. It appeared to me that Ms.
9 Todd was attempting to forcefully seize the All Cities Realty® trademark and
10 effectively run me out of business. I believed it was important to get truthful
11 information to the agents regarding my trademark, the lawsuit, the people they were
12 working for, issues of the lawsuit, independent contractors, and trademarks in
13 general.

14 33. Per Kelli Todd's own admissions, all of the individual defendant agents
15 in the State Court lawsuit and the Hollymax lawsuit are independent contractors, not
16 employees of Ms. Todd or Re/Max All Cities Realty. See Exhibit A to the
17 Declaration of Jeffrey F. Sax, which is a copy of Defendant's response to our
18 interrogatories where that admission was made. The bottom line was that my blog
19 was (and is) an effective low cost method to get my side of the story published.

20 **Kelli Todd's Admission that the Web Site did not Hurt Them**

21 34. In May of 2007 at the request of Ms. Todd, I met personally with Dan
22 Verdin (a Re/Max All Cities Realty executive) and Kelli Todd at the Yard House
23 restaurant in Long Beach. No lawyers were present. **I was told by them at that**
24 **meeting the www.remaxlawsuits.com website was not hurting them or**
25 **bothering them in any way.** At that time they never asked me to remove it and
26 were very matter-of-fact regarding its existence. They threatened me at that meeting
27 that if I did not settle they were going to ratchet up the lawsuit using Loeb and Loeb
28 a 1,000 attorney law firm who they stated they had on retainer.

1 **Examples of Perjury and Other Criminal Conduct Committed by Defendant's**
2 **Principals and my Website Reporting of these Facts**

3 35. As time passed, I started to investigate the owners to get a better idea of
4 who I was dealing with. After some basic investigation it became more clear to me
5 the types of individuals that owned and were running the company. I unearthed the
6 following information:

- 7 ➤ Robert K. "Bob" Todd, Ms. Todd's father finally had his real estate broker
8 license permanently revoked by the California Department of Real Estate
9 for fraud on 10/31/1995. Attached as Exhibit 6, is a Department of Real
10 Estate print out of his license status that contains this information. He was
11 criminally charged on April 29, 1994 by Steven J. Ellis, Deputy Real
12 Estate Commissioner, in a 40 page accusation labeled H-25803 which was
13 only one of several separate accusations by the State. A copy of the face
14 page of the "Accusation" is attached as Exhibit 7.
- 15 ➤ When Bob Todd was forced to give up his license he was also forced to
16 give up his Remax franchise (per their franchise regulations) and on June
17 14, 1994 he placed the company in a corporation and put the company in
18 Ms. Todd's name (see Exhibit 8, hereto, an article in LORE magazine in
19 which Ms. Todd is interviewed and states on page 2 that the company was
20 given to her in 1997); I understand, from agents that I have spoken with,
21 that he ran the company from behind the scenes and was paid as an
22 "independent contractor" (i.e., consultant) keeping his own office
23 effectively evading the necessity of having a broker license until about
24 mid-2005; well after his federal conviction and the revocation of his real
25 estate license. Dale Eleniak, the attorney who represented him in the State
26 accusation, conveniently became his broker of record. In fact, through
27 2005, Bob Todd appears in various publications as part of company
28 management and even though he was, as a sentence, given home detention

1 and a \$375,000 fine, he convinced the court to allow him to travel and go
 2 to work – BACK AT REMAX! (See Exhibit 9 hereto, which is a case
 3 summary for one of the criminal cases filed against Bob Todd. See Exhibit
 4 10, two news articles published on September 15, 2002 and on September
 5 11, 2003, in which it reports that Mr. Todd was fined \$370,000, lost his
 6 real estate broker's license, and in 1997 transferred the corporation and
 7 presidency to his daughter, Kelli Todd. See also Exhibit 11, which is the
 8 USCD Sentencing Minutes, and Exhibit 12, the Criminal Docket.

- 9 ➤ Robert K. "Bob" Todd and Re/Max Beach Cities Realty claimed
 10 bankruptcy January 6, 1994 and refiled October, 5, 1999 Los Angeles case
 11 # 2:94-11649 relieving itself of I believe about \$4,000,000 in debt
 12 according to their bankruptcy schedules. A copy of the Docket for his
 13 bankruptcy case is attached hereto as Exhibit 13.
- 14 ➤ Kelli Todd had also personally claimed bankruptcy April 13, 1994 Los
 15 Angeles case # 2:94-24058. A copy of the Docket showing this filing is
 16 attached hereto as Exhibit 14.
- 17 ➤ Kelli Todd has again committed perjury in the context of the Commbroker
 18 bankruptcy petition. Ms. Todd on the January 2009 Commbroker
 19 bankruptcy filing fails to note as required by law, that she, her father and
 20 the vice president of her company have all previously filed bankruptcy –
 21 see bankruptcy filings: USBC (Robert K. Todd) 2:94-11649 [Ex. 13,
 22 above], (Kelli P. Todd-Amundson) 2:94-24058 [Ex. 14, above], (Dan
 23 Verdin VP) 2:05-bk-33825-BB [see Exhibit 15, hereto which is the Docket
 24 for his bankruptcy filing]. I attach as Exhibit 16, the Commbroker
 25 bankruptcy filing and schedules showing those admissions. (See local
 26 rules 1015-2 item #3.)
- 27 ➤ If that were not enough, Re/Max Beach Cities Realty also filed bankruptcy
 28 (See the LORE magazine article, Ex. 8, above, and an article in

1 Entrepreneur.com, reprinting a Los Angeles Business Journal article
2 discussing the bankruptcy, which I attach as Exhibit 17. This is the
3 company that later called itself Re/Max All Cities Realty in violation of my
4 federal trademark, just after Bob Todd's criminal conviction.

- 5 ➤ This is typical of what we have been dealing with during the entire
6 litigation – false statements, misleading statements and misleading
7 information. A declaration is filed by Defendants under the penalty of
8 perjury and we, the Plaintiff, discover it is an untruth “got cha” – just as in
9 her most recent Commbroker bankruptcy papers and the attached
10 bankruptcies of the people she was supposed to list. (See Ex. 16, above
11 where she “again” commits perjury to a federal court – this time the
12 bankruptcy court.) She can't possibly claim that she did not know that she
13 personally claimed bankruptcy or that her father and the pre-cursor to her
14 company Re/Max Beach Cities was also involved in a bankruptcy.
- 15 ➤ Bob Todd was charged in a major Southern California real estate scandal
16 beginning in April of 1994 by the California Department of Real Estate.
17 Mr. Todd accepted a plea agreement for four separate accusations on April
18 4, 1995. On March 17, 1998. Mr. Todd was indicted for Bank Fraud by the
19 US Department of Justice and was finally convicted of Federal Loan Fraud
20 on August 5, 2002 by Judge George H. King – case 2:98-cr-00261-GHK-3.
- 21 ➤ After Mr. Todd's federal conviction the name of the company was then
22 changed to All Cities Realty. Starting approximately one week following
23 his conviction 14 DBAs for All Cities Realty were filed. Even after having
24 his real estate broker licensed revoked by the Department of Real Estate,
25 and then being convicted of a federal real estate crime, Mr. Todd was given
26 back his office at Re/Max and hired as independent contractor by his
27 daughter Kelli Todd, the President of Re/Max Marquee Partners/Re/Max
28 All Cities Realty. I attach as Exhibit 18 a print out (by me) of a webpage

1 from the Re/Max All Cities Realty website in January 2007, showing Bob
2 Todd as the first person listed on the “Senior Management Team”, even
3 above Kelli Amundson, the President. I attach as Exhibit 19, a copy of
4 Defendant’s Office Minutes for a meeting held on June 6, 2006 which I
5 obtained on the internet, in which, on page 2, Kelli Todd-Amundson states
6 that “Bob and I” made the decision to terminate Dale Eleniak (their broker
7 of record and in house lawyer). I attach as Exhibit 20, a webpage I printed
8 out on November 9, 2007 from the Re/Max International website in which
9 Bob Todd is listed as the owner of “Re/Max All Cities.”

10 ➤ Mike Hubbard the “real estate agents mentor” as described on the Senior
11 Management page of their website (see Exhibit 18, hereto) was also
12 convicted of Federal Loan Fraud on October 21, 2002 – case 2:00-cr-
13 00032-GHK-2 which was also in front of Judge King. (See Exhibit 21
14 hereto, which is the Criminal Docket for Hubbard’s case.) Mr. Hubbard’s
15 real estate license was revoked by the Department of Real Estate on
16 September 5, 2003. (See Exhibit 22, hereto, the DRE’s decision revoking
17 his license, and Exhibit 23, a print out from the DRE website showing that
18 Mr. Hubbard’s license is still revoked.) Kelli Todd, the President of
19 Re/Max Marquee Partners, had Mr. Hubbard working for the company
20 teaching the agents, acting as the company “mentor” after he had his own
21 real estate broker license revoked for his federal fraud conviction in a
22 completely different fraud case. See Ex. 19, above, in which the agents are
23 encouraged to consult with Mr. Hubbard for real estate advice.

24 ➤ The Todds found ways around the DRE’s safeguards and Bob Todd and
25 Mr. Hubbard both stayed actively employed in the real estate business
26 following their federal loan fraud convictions with the blessing of Kelli
27 Todd.

28 ➤ This Remax had been involved in the title insurance kickback scheme and

1 was implicated by the State of California as reported by an article dated
2 July 21, 2005, page 4, which is attached hereto as Exhibit 24. (See also the
3 Department of Insurance's press release about this topic on July 20, 2005
4 which is also part of Exhibit 24.)

- 5 ➤ Bob Todd's escrow company, now All Cities Escrow, was also caught up
6 in the federal loan fraud and two escrow agents went to prison who were
7 assisting with the loan fraud escrows. See Exhibit 25, which is an Easy
8 Reader publication dated in 2000 addressing this subject.
- 9 ➤ A total of 19 people in total were caught up in the "south bay real estate
10 scandal" (see Ex. 25, the Easy Reader article) and this, we believe, is the
11 reason the name of the company was changed.
- 12 ➤ My www.remaxlawsuits.com website contains full downloadable
13 documentation of these facts about these people, such as multiple criminal
14 convictions, revocation of Brokers license, Department of Real Estate
15 findings, 100s of lawsuits etc. and clearly states if anything is found to be
16 untrue to notify me immediately. Not one person has notified me of ANY
17 untruths to date. As detailed above, we have hard evidence to prove all that
18 we say.
- 19 ➤ What TRULY amazed me is when I found an online article by LORE
20 Magazine where Kelli Todd is interviewed. She made light of the multiple
21 bankruptcies, the fact that the FBI investigated her company, and that her
22 father was convicted of federal loan fraud. All these major issues were
23 played down and it was like "everyone was doing it" and we are a healthy
24 company now! Much of what I have made public, Ms. Todd already told
25 the world via her interview. A copy of the article is attached as Exhibit 8,
26 and a copy of Ms. Todd's letter of praise about the article in the following
27 edition is attached as Exhibit 26.
- 28 ➤ Contrary to Mr. Sandeland's scathing accusations, to alert and inform the

1 independent contractors I posted only “truthful” information on the website
2 updating the agents with motions that were filed and other information
3 including my opinions of the events.

4 ➤ The truth here is the “TRUE” information about the company, the way it
5 does business, its 100s of lawsuits, its fraudulent past, its bankruptcies, its
6 kickbacks, is NOTHING that the management wanted the public to know,
7 yet it is all “Public Information”. I believe they were horrified I found all
8 this out and made it all public. It was like exposing Enron or Bernie
9 Madoff. **Now unfortunately all this is associated with my federal**
10 **trademark.**

11 ➤ Additionally, I provide a disclaimer on the website in multiple
12 areas. For example, in

13 <http://www.remaxlawsuits.com/letterfromminer.htm> -

14 “**Disclaimer** -- This is the personal blog of Joseph Miner
15 regarding the Remax All Cities Realty Federal and State
16 lawsuits. The blog is posted to keep interested parties up to date
17 on the day to day proceedings of this contentious real estate
18 related trademark litigation. This is the David v. Goliath story
19 of a small real estate company with a registered Federal
20 Trademark battling the WORLDS third largest Re/Max
21 Franchise who decided to seize the registered Federal
22 Trademark owned by ALL CITIES REALTY, INC. > ALL
23 CITIES REALTY® -- Certainly there are two sides to every
24 story. **This is my side of this story and my opinion of the**
25 **issues**, the players, the interesting history of the Re/Max
26 players, and the twists and turns of battling one of Re/Max
27 International's largest franchisees for more the SIX YEARS. I
28 believe everything written here, if stated as fact, is 100%

1 accurate, and if not stated as fact it is generally commentary or
 2 opinion of Joseph Miner. Most of the FACTS are backed up by
 3 public documents which can be downloaded. If you note
 4 ANYTHING that is stated as a FACT that is not accurate,
 5 please inform me and I will remove after investigation.
 6 Welcome to my blog! A note about FREE SPEECH. We do
 7 have FREE SPEECH in the United States of America.
 8 Additional information about free speech is available through a
 9 multiplicity of organizations. You may start here and read about
 10 your rights as protected under the law and the First Amendment
 11 [\[link\]](#). The Supreme Court ruled in *Gertz v. Robert Welch, Inc.*
 12 418 U.S. 323 (1974), opinions could not be considered
 13 defamatory. It is thus permissible to suggest, for instance, that
 14 someone is a bad lawyer, but not permissible to falsely declare
 15 that the lawyer is ignorant of the law: the former constitutes a
 16 statement of values, but the latter is a statement alleging a fact.
 17 [\[cite wikipedia\]](#)”

18 36. During a State Court hearing in 2006 while attempting to convince the
 19 Judge to stay the case, Mr. Sandelands told the Judge **“If CF [Re/Max All Cities**
 20 **Realty] is found guilty your honor, they [the agents] will all be guilty.”** These
 21 were Mr. Sandeland’s own words to the court; perhaps he has forgotten. I was there
 22 and I witnessed his statement and it was my big “ah ha!” I remember it very clearly.
 23 My statement about opening the State lawsuit is another truth. This is what we plan
 24 to do... should we lie to the agents who read the site and be silent? I have also
 25 mentioned “Litigation Hell” in the blog... after 6 years of dealing with these people
 26 [Re/Max] NO ONE knows litigation hell better than I do.

27 37. “Just 60 days to trial – March 2009” was another completely accurate
 28 statement. Apparently the Defendant and Defendant’s counsel does NOT want the

1 agents to know when the trial will be held.

2 38. Mr. Sandelands also protests my comments about the big shell game.
3 During the course of this litigation I can not tell you how many times the
4 Defendant's declarations to the court have been false or misleading. Although it
5 would take weeks to assemble the complete document list, there have been many. In
6 the recent declaration to Judge Carney, Ms. Todd swore to the Court, under penalty
7 of perjury that she was no longer using the All Cities Realty name. Immediately I
8 showed my counsel, Mr. Sax, more than 59 pages still on the internet on the Re/Max
9 Commercial Brokerage website that STILL used the name All Cities Realty at least
10 twice on each page -- that was September 2008 ... 10 months AFTER Mr.
11 Sandelands, in another declaration, claimed Ms. Todd had abandoned the name and
12 she signed that declaration also under the penalty of perjury. Some of those
13 examples were attached to the opposing papers filed with Judge Carney in the
14 Hollymax case. Since my declaration is overburdened with exhibits, I will not
15 reattach them here, but they are available for review in the court file. I can lodge
16 them upon request.

17 39. Time after time after time the statements have been false, hollow,
18 slanted or spun to make black look white. Every time they file a motion we are
19 forced into a game of check the truth then... "got cha". This is the exact reason I
20 have dubbed David Sandelands the magician on my website. Some people may think
21 that nickname is a compliment!

22 40. It is true many State Court agent Defendants have called me and
23 emailed me. I cannot stop them from doing that. Recently a former agent, John
24 Trombetti, called me and we spoke for an hour. He said he had no confidentiality
25 agreement and was not represented by an attorney. One of the things he told me was
26 that Bob Todd's nickname at Remax was "JR" because his character resembled the
27 evil character in the series "Dallas". I have informed all people who call that they are
28 not supposed to be calling or talking to me if they are represented by an attorney.

1 The website clearly states “Don't Wait –CALL YOUR ATTORNEY TODAY ASK
2 WHAT YOU SHOULD DO!” What is abundantly clear is that Remax has kept their
3 agents in the dark regarding the lawsuit and they are happy to check in and gather
4 information when they wish on my website. Not one of the many agents who has
5 called even knows who David Sandelands is. This is the kind of representation they
6 have offered their agents.

7 41. Mr. Sandelands has chosen to segregate small parts of the entire
8 “website book” I have written and the parts he presents to the court are easily taken
9 out of context if you have not read the entire blog. Then he highlights them in his
10 motion and repeats them 100 times for the court – he is grandstanding.

11 42. Any individual, including Frank Carone, President of Commbroker,
12 who claims Commbroker, its agents, Hollymax, its agents have NOT used the All
13 Cities Realty® name are either ignorant or committing perjury. This is not the first
14 time that Defendants have knowingly filed false statements with this Court. As I just
15 mentioned, in the recent motions to lift the stay in this action, we showed the court
16 there were at least 58 pages from the Commbroker website “still” using the All
17 Cities Realty name as of the date of that motion, even though Kelli Todd,
18 Defendants’ principal, stated under penalty of perjury that they were not using my
19 name and never had. Following Ms. Todd’s perjury, the Commbroker website was
20 “finally” removed – the next day!

21 43. Kelli Todd and David Sandelands in the last motion claimed the All
22 Cities Realty® name had been abandoned by them. After the motion was filed, on
23 the 20th of October, 2008, I received a call from an individual at about 4:10 pm who
24 wanted to know what agent was representing the building located at 5246 E. 2nd
25 Street, Long Beach, CA because it had a “Re/Max All Cities Realty” sign on it. I
26 looked it up and found it was a listing under Frank Carone (manager of
27 Commbroker) who supplied a declaration for the Defendant in the motion. At
28 paragraph 6 of his declaration submitted in connection with the relief of stay motion,

1 Mr. Carone stated “under perjury” that Commbroker did not use the All Cities
2 Realty name.

3 **The October 8, 2008 Settlement Email to the Agents**

4 44. As further proof of his grandstanding to the court I have included a
5 copy of my original settlement email to the agents, which is attached hereto as
6 Exhibit 27. The statements I made were real and truthful to my knowledge – some
7 people don’t even know that a court judgment goes on your credit record – Kelli
8 Todd would NEVER tell them that. **THE TYPE FONT WAS NOT**
9 **BOLDED HUGE AND THREATENING** like Mr. Sandelands
10 would like the court to believe. It was 10pt type -- smaller than allowed in court
11 documents. The comments were hardly visibly threatening as he has made them out
12 to be. As part of Exhibit 27 I have circled this text as it appeared in the email and as
13 Mr. Sandelands positions it in his papers to show his grandstanding.

14 45. I admit that am personally responsible for the October 8, 2008 email
15 letter to the agents which was the subject of Defendants’ motion to disqualify.
16 Jeffrey F. Sax, All Cities Realty’s attorney, did not authorize the email letter, did not
17 approve the email letter, did not write the email letter, did not send the email letter
18 and has NO responsibility for this letter whatsoever. The letter did not come from an
19 email address Mr. Sax has access to, from a website he has access to, and Mr. Sax
20 was entirely unaware I sent the letter. Although the Defendant constantly repeats,
21 and repeats, and repeats 100 times that Jeffrey Sax sent the email; Jeffrey Sax DID
22 NOT send the email and had nothing to do with it.

- 23 ➤ Jeffrey Sax’s name appeared nowhere on the email
- 24 ➤ Jeffrey Sax’s Law Office appeared nowhere on the email
- 25 ➤ Jeffrey Sax’s telephone number appeared nowhere on the email
- 26 ➤ Jeffrey Sax’s email address did not appear in the email
- 27 ➤ Jeffrey Sax was never mentioned in the email
- 28 ➤ The email was not signed by Jeffrey Sax

1 ➤ The truth be known, I would bet the agents don't even know who Jeffrey
2 Sax is! Their unsubstantiated claim is totally bogus.

3 46. The TRUTH is completely opposite of what Mr. David Sandelands
4 claims in this totally false motion to Judge Carney, with not a shred of proof
5 whatsoever that Jeffrey Sax had ANYTHING to do with this. I DO NOT seek
6 approval from Jeffrey Sax for most decisions I make in these legal actions and this
7 was no different.

8 47. The "All Cities Realty Legal Team" is my wife and I. We are the
9 "Team" that has delivered summonses, packaged 100s complaints for the agents,
10 sorted the discovery, drafted my declarations and done all possible support work in
11 this litigation since day one. We are the All Cities Realty Legal Team and we have
12 joked about this to keep our spirits up throughout this entire unfortunate exercise
13 while fighting California's largest Re/Max franchisee with their unlimited financial
14 resources and staff. It is my wife and I, a two person legal team, against this lying
15 behemoth with deep pockets. The truth is we are the All Cities Realty... "legal
16 team", "advertising agency", "janitorial service", "web development agency", and
17 "accounting department". While we do have a running business with agents, and
18 we do not have a staff of 75 people to take care of these issues like Remax does, we
19 are clearly the All Cities Legal Team and the letter was clearly written from that
20 perspective. I simply did not believe that I needed an attorney to put out a simple
21 offer to the agents. Judge Carney was unhappy that I sent the email but I was not
22 punished for it and he did not call it "litigation abuse."

23 48. It is my opinion that the email, directly from me, offering settlement did
24 not break any law and was strictly a good faith gesture to the agents. I did it entirely
25 on my own and take full responsibility.

26 49. Over the years this legal action has been in the court system, I have
27 been contacted by MANY agents who have wanted out of the legal action and who
28 wanted additional information as well. I typically get a few calls or emails per month

1 about the lawsuits and regarding trial or settlement. Each time at the outset of the
2 conversation I ask the agent who called whether he/she is represented in the action.
3 If the answer is “yes” I would refer the agent to his/her lawyer. If the answer is “no”
4 I would answer the agents’ questions. I HAVE NOT INITIATED ANY CONTACT
5 WITH ANY OF THE AGENTS (other than the settlement letter) or agents who
6 contacted me first and indicated they wished to talk to me.

7 50. Part of the purpose of my email to the agents is that their own CEO,
8 Kelli Todd, is either boldly lying to her agents, or to the court. In one statement she
9 is claiming she is broke and has to close her offices yet at the same time she is
10 claiming to 1,000 agents she can indemnify all of them from damages in a major
11 trademark lawsuit – this is more true than ever now that Commbroker has filed for
12 bankruptcy. You simply can not have it both ways. In one breath Ms. Todd boldly
13 states she is going to indemnify all her agents (this discourages them from suing her
14 for her wrongdoing) and on the other had she states to the court and to the Plaintiff
15 she is going out of business and has no money. So which is it? Can the Court not
16 force Ms. Todd to tell her agents the truth? The agents are depending on her telling
17 the truth, and making life decisions about her telling the truth. She has not had to
18 show the court a single shred of evidence that she can indemnify a single agent let
19 alone 1,000 agents. This is no different than former CEOs Kenneth Lay of Enron,
20 Herbert McDade III of Lehman Brothers, Steve Rotella of WAMU, Robert Steel of
21 Wachovia, Herbert Allison, Jr. of Fannie Mae, David Moffett of Freddie Mac and
22 the heads of other recent institutional failures. When Ms. Todd lies, the agents
23 suffer. Apparently, having me enlighten the agents is very worrisome to Ms. Todd;
24 otherwise, why would she act so radically.

25 51. The Defense was WELL AWARE Attorney Jeffrey Sax had NOTHING
26 to do with the sending of that email PRIOR to filing their motion! Defense Attorney
27 David Sandelands reads my Internet blog often, almost daily. Prior to filing this
28 motion David Sandelands and the Defendants READ the facts of the email, before

1 filing this motion and were informed that I was 100% responsible for the email.
2 They knew completely beforehand from my own blog that I wrote and sent the
3 email! The fact is that David Sandelands read the blog at 1:07 PM and the motion
4 was filed with the court at 2:43 p.m.

5 52. My opinion is that this filing is NOT about this single email. This is
6 about eliminating my free speech, crippling my lawsuits, and eliminating my website
7 www.remoxlawsuits.com. It should be obvious to the court that Remox and David
8 Sandelands are using every abusive tactic available to them to eliminate me and my
9 company before we get justice. My website tells the TRUTH about these people and
10 the legal actions. The Defendants read the website, David Sandelands reads the
11 website, the agents and brokers read the website.

12 53. At this point more than 96,000 page views have been seen on
13 www.remoxlawsuits.com. The site using that domain has been on the Internet since
14 May of 2007; prior to that date it used a subdirectory of www.allcitiesrealty.com for
15 the blog. The number of unique visitors is 47,800 with approximately 2,400 people
16 checking the site regularly. Of course many of these are repetitive visitors who check
17 in on the lawsuit to gain useful information. The site displays public information
18 about the Defendants and general information about the cases. I can tell you that
19 many of the agents are aware of the site, keep track of the lawsuits, and are well
20 aware of what is going on.

21 54. Rather than put a settlement letter "open to the public" I sent out an
22 informative email and settlement offer. Am I not allowed to offer settlement directly
23 to the State Court defendants, especially since they are not represented by an
24 attorney? I did make the document available on the Internet, but only the persons
25 who got the email would know the webaddress; it was never made "public" per se as
26 the specific web address was only included in the emails that were sent. It is not on
27 any search engine.

28 55. While the Defendants (actually Ms. Todd) recently demanded I take

1 down the website, I have not – the agents deserve to know what is going on. Ms.
2 Todd filed a lawsuit against me and then immediately dropped the lawsuit. The site
3 is truthful about the background, history and misdeeds at this Remax. This motion is
4 just another desperate measure to try and cripple my case as the trial gets closer.

5 56. As I have stated before to the court, during the past six years I have
6 been battling these people never have I witnessed a completely truthful statement to
7 the Court from the parties, the employees, or their attorney David Sandelands. They
8 have done nothing but use their financial wealth and every evasive tactic and
9 mistruth to evade and mislead. This new motion just goes to show the court what I
10 say is again true. They have filed this motion, knowing what they say to the court are
11 untruths, yet they file them anyway, and have never been sanctioned for lying to the
12 court. Yet, my attorney bills just keep climbing responding to their frivolous,
13 dishonest motions and declarations.

14 57. It should be noted that Defendant constantly tries to belittle Plaintiff to
15 the court showing the court one single MLS listing and their ongoing broken record
16 misstating the truth. I am the broker for All Cities Realty and all sales and listings
17 don't show under my name. Additionally what Defendant fails to tell the court is that
18 the MLS affiliation has "evolved" and we now have an MLS Alliance – we don't
19 need to be members of all the MLS organizations they list. To be quite clear, we
20 have provided the Defendant with many pages of transactional information, but the
21 Defendant purposely wants to show the court my MLS printout. The court should
22 know that Kelli Todd has never sold a home as an agent in her LIFETIME and does
23 not even have an MLS printout. This "filler" simply has nothing to do with this
24 lawsuit. I am now the broker/manger at All Cities Realty, Inc. and I don't actively
25 sell homes.

26 58. Each and every agent had the ability to opt-out of the email list after
27 receiving the email. Out of all the agents that got this email, which, went to five
28 hundred agents, only TWO respondents have opted out. This clearly shows at the

1 bottom of each email that one may opt-out of the list and NEVER receive another
2 email. If it was the Agents that did not wish this information, hundreds would have
3 opted out of further emails. Since the “settlement letter” went out, many new
4 individuals have signed up for an update letter and like I mentioned before only 1 or
5 2 people have removed themselves from the list – however no updates have been
6 sent as I have been afraid to send out an update; I don’t wish Mr. Sandelands to bang
7 his drums and open the motion circus once again – effectively he has prevented me
8 from exercising my free speech as every time I do it costs me money when he goes
9 into action.

10 59. The source of all these email addresses was Kelli Todd. The fact that
11 her Senior Management team received the emails; Kelli Todd provided them to us
12 and I guess that all her employees are ALSO on the list she said were only agents –
13 the roster had everyone’s email addresses – apparently her employees were on the
14 roster list too. It is only the second email I have sent in 3 years to the agents.


15 60. Last, but maybe one of the most important notations here. Not a single
16 declaration comes from a current “agent” or a “former agent”. These declarations
17 come from Kelli Todd’s inside group of senior managers who will lose their job if
18 Kelli Todd loses this legal action. There is an old adage “desperate people do
19 desperate things”, this motion just shows that to be true today. Please sanction these
20 people so they will cease once and for all lying to the court.

21 ///
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1 61. Now that I have presented this undeniable tangible evidence to the court
2 with documents and hard copy backing up each and every accusation I make and
3 each and every untruth that I am forced to refute, I would hope the court allow me to
4 continue my suit as soon as possible and allow me the justice that I and my company
5 deserve. It can not be refuted; these people are who they are and have done what
6 they have done. I have documentation and witnesses to prove every single thing I
7 have said and every claim I have made! I have graciously supplied them and their
8 counsel with eight disks of hard data to prove every single accusation I make. I have
9 suffered tremendously at the hands of this company. At this time I simply ask the
10 court to proceed and let me have my day.

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I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 9th day of February, 2009 at Costa Mesa, California.



Joseph Miner