

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address):
Craig L. Winterman (SBN 75220)
HERZFELD & RUBIN LLP
10250 Constellation Boulevard, Suite 100
Los Angeles, CA 90067

OCT 18 2020
AFTER 4:00 P.M.

FOR COURT USE ONLY

TELEPHONE NO: 310-351-2925 FAX NO. (Optional):
E-MAIL ADDRESS (Optional): cwinterman@hrlp-law.com
ATTORNEY FOR (Name): Plaintiffs, Robert Golden and Nicole Golden

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
S UPERIOR ADDRESS 800 South Victoria Avenue
MAILING ADDRESS same as above
CITY AND ZIP CODE Ventura, California 93009
BRANCH NAME HALL OF JUSTICE

PLAINTIFF Robert Golden and Nicole Golden
DEFENDANT Francisco Gonzalez Noemi Apodaca Gonzalez, Richard Ballard, RE Ballard Company
 DOES 1 TO 50

COMPLAINT—Personal Injury, Property Damage, Wrongful Death
 AMENDED (Number):
Type (check all that apply):
 MOTOR VEHICLE OTHER (specify): fraud and statutory violations
 Property Damage Wrongful Death
 Personal Injury Other Damages (specify): Punitive

CASE NUMBER:

Jurisdiction (check all that apply):
 ACTION IS A LIMITED CIVIL CASE
Amount demanded does not exceed \$10,000
 exceeds \$10,000, but does not exceed \$25,000
 ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)
 ACTION IS RECLASSIFIED by this amended complaint
 from limited to unlimited
 from unlimited to limited

1. Plaintiff (name or names): Robert Golden and Nicole Golden
alleges causes of action against defendant (name or names):
Francisco and Noemi Apodaca Gonzalez Richard Ballard and RE Ballard Company
2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. Each plaintiff named above is a competent adult
 - a. except plaintiff (name):
 - (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):
 - b. except plaintiff (name):
 - (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

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4. Plaintiff (name):
 is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. except defendant (name): RE Ballard Company

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

c. except defendant (name):

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

b. except defendant (name):

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

d. except defendant (name):

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. Doe defendants (specify Doe numbers): 1-50 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

b. Doe defendants (specify Doe numbers): 1-50 are persons whose capacities are unknown to plaintiff.

7. Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. at least one defendant now resides in its jurisdictional area.

b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.

c. injury to person or damage to personal property occurred in its jurisdictional area.

d. other (specify):

The tortious and fraudulent acts occurred within the court's jurisdiction and the property involved is located in the court's jurisdiction.

9. Plaintiff is required to comply with a claims statute, and

a. has complied with applicable claims statutes, or

b. is excused from complying because (specify):

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10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. Motor Vehicle
- b. General Negligence
- c. Intentional Tort
- d. Products Liability
- e. Premises Liability
- f. Other (specify):

fraudulently and falsely representations and violations of Civ I Code 1709, 1710 and Business & Profession Code 172C0

11. Plaintiff has suffered

- a. wage loss
- b. loss of use of property
- c. hospital and medical expenses
- d. general damage
- e. property damage
- f. loss of earning capacity
- g. other damage (specify):

Over paid for home in an amount to be determined and costs and expenses associated with renting an RV space in a sum to be determined.

12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. listed in Attachment 12.
- b. as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) compensatory damages
 - (2) punitive damages
- The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):
- (1) according to proof
 - (2) in the amount of: \$ 1,100,000.00

15. The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):
5a

Date: October 11, 2020

Craig L. Winterman

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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First

(number)

CAUSE OF ACTION—Fraud

FR-4. Promise Without Intent to Perform

a. Defendant made a promise about a material matter without any intention of performing it as stated in Attachment FR-4.a as follows

Francisco & Noemi Apodaca Gonzalez (“Gonzalez”) owned a home located at 4397 Woodglen Dr. Moorpark California. The Gonzalez listed their home for sale with Richard Ballard of RE Ballard Company. Defendants both orally and in writing intentionally, fraudulently and falsely misrepresented that the home included gated RV access and RV parking.

b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act as stated in Attachment FR-5 as follows:

Plaintiffs entered into a contract to and did complete the purchase of the home.

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged as stated in Attachment FR- 6 as follows:

The home did not and does not have gated access to RV parking and does not have RV parking. Plaintiff overpaid for the property and the value of the property is less due to not having gated RV access to parking and not having RV parking. Plaintiffs will have to incur the additional expense of having to rent an RV space.

FIR - 7. Other:

Defendant RE Ballard and Does 21-30 in doing the acts alleged did so in violation of Business and Professions Code Section 17200.

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Exemplary Damages Attachment

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ATTACHMENT TO Complaint Cross - ComplaintEX-1. As additional damages against defendant (*name*):

Francisco Gonzalez, Noemi Apodaca Gonzalez, Richard Ballard and RE Ballard Company

Plaintiff alleges defendant was guilty of

 malice fraud oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Francisco & Noemi Apodaca Gonzalez ("Gonzalez") owned a home located at 4397 Woodglen Dr. Moorpark California. The Gonzalez listed their home for sale with Richard Ballard of RE Ballard Company. Defendants in order to induce a buyer to purchase the home both orally and in writing intentionally, fraudulently and falsely represented that the home included gated RV access and RV parking. Plaintiffs relied upon defendants representations & did not learn that defendant's representations were false and fraudulent until approximately May 2018 which was approximately one month after Plaintiffs moved into the home.

EX-3. The amount of exemplary damages sought is

a. not shown, pursuant to Code of Civil Procedure section 425.10.b. \$ 1,000,000