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EXPEDITE
 Hearing is set:
Date: November 14, 2003
Time: 9:00 a.m.
Judge/Calendar: Hon. Daniel J. Berschauer

FILED
NOV 14 2003
SUPERIOR COURT
BETTY J. GOULD
THURSTON COUNTY CLERK

**SUPERIOR COURT OF WASHINGTON
FOR THURSTON COUNTY**

NANCY ARMSTRONG, E. J. ZITA,
DEAN ANDERSEN, BOBBE
ANDERSEN, EDEE CORNETT, CARL
SINGLETON AND ANNETTE
SINGLETON,

Plaintiffs,

v.

DON MASSOTH, LARRY MOYE,
DIANE MOYE, DAVE THRASHER,
CARLA THRASHER, TIMOTHY
VESSEY, MICHAEL MARTY,
LEANNE MARTY AND LARRY
JOHNSON,

Defendants.

No. 03-2-01419-0

PERMANENT INJUNCTION

THIS MATTER came before the Court on August 8, 2003 on Plaintiff Nancy Armstrong, E.J. Zita, Dean Anderson, Bobbe Anderson, Edee Cornett, Carl Singleton, and Annette Singleton's (collectively "Plaintiffs") Motion for a Restraining Order against Defendants Don Massoth, Larry Moyer, Diane Moyer, Dave Thrasher, Carla Thrasher, Timothy Vessey, Michael Marty, Leanne Marty, and Larry Johnson (collectively "Defendants"). The Court heard oral argument of counsel for Plaintiffs and the Defendants; the Court considered the files and pleadings in this matter, specifically including the declarations of Plaintiffs and their counsel, the Defendants' response and declarations, and the Plaintiffs' reply and supporting declarations. Based on the argument of counsel and the evidence presented in

1 support of that argument, the Court found and concluded: that the Plaintiffs showed a clear legal right
2 that was being impacted by the Defendants' use of quads and all-terrain vehicles on the identified
3 properties; the operation of quads and all-terrain vehicles on Defendants' properties increased the
4 decibel level above Washington Administrative Code and Thurston County Code standards; that there
5 was evidence and testimony to support Plaintiffs' health concerns from dust and emissions from the use
6 of such quads and all-terrain vehicles; the operation of such quads and all-terrain vehicles would result
7 in the invasion of Plaintiffs' clear legal and equitable rights; and on balance there was probable cause to
8 believe Plaintiffs would prevail on the merits at trial. A preliminary injunction was signed and entered
9 by this Court on August 29, 2003.

10 After the preliminary injunction was entered, all of the Defendants stipulated and agreed to allow
11 the preliminary injunction to become permanent in exchange for the Plaintiffs agreeing not to pursue
12 damages and costs against the Defendants. Those stipulations and orders signed by the parties have been
13 filed with and signed by this Court.

14 For the reasons set forth, it is hereby:

15 ORDERED:

16 1. That Defendants, and their agents, children, servants, employees, and all other persons in
17 active concert and participation with Defendants who receive actual notice of this injunction, are hereby
18 ordered and enjoined from the use of Defendants' residential properties as a homemade track and from
19 riding quads, motorcycles, or other all-terrain motor vehicles on the Defendants' properties located at or
20 near Silver Fox Court SE in Olympia, Washington, including: 8729 Silver Fox Court SE, 8735 Silver
21 Fox Court SE, 8741 Silver Fox Court SE, and 8747 Silver Fox Court SE, except for limited operation as
22 noted below. In connection with this matter all of the parties (Defendants and Plaintiffs) are enjoined
23 from engaging in any acts of nuisance and harassment against each other, including but not limited to the
24 parties' children, guests, neighbors, property, and dogs/animals;

25 2. The bond previously posted by the Plaintiffs in the amount of \$1,250 to the Superior
26 Court of Thurston County Registry shall be returned to Plaintiffs Nancy Armstrong or E.J. Zita;

27 3. The Defendants' are allowed to have their quads and motorized all-terrain vehicles in
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1 reasonable operation, for a period not to exceed ten minutes at a time, for the purpose of hauling
2 firewood to and from their homes and for the purpose of removing gardening refuse from areas around
3 their homes, provided not less than 72 hour written notice is provided describing the start and anticipated
4 end time, date, and type of activity which is expected to occur. Written notice shall be provided to the
5 Plaintiffs' attorneys. Such operation shall take place between the hours of 9:00 a.m. and 5:00 p.m.

6 4. The Defendants may start and operate their motorized all-terrain vehicles, motorcycles
7 and quads for the limited purpose of loading and unloading them onto their trucks, trailers, or other
8 motor vehicles for use off the enjoined properties.

9 5. No damages will be awarded to any of the parties in connection with this action and the
10 parties shall bear their own respective attorney fees, expert fees, and costs. In the event any of the
11 parties violate this permanent injunction in the future, the prevailing party enforcing this permanent
12 injunction against the violating party shall be entitled to pursue and recover all available legal and
13 equitable remedies, including but not necessarily limited to, the recovery of reasonable attorney fees,
14 expert fees, and other litigation costs and expenses incurred as a result.

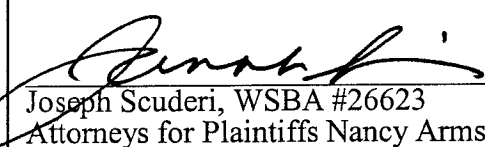
15 DONE IN OPEN COURT this 14th day of November, 2003.

16
17 DANIEL J. BERSCHAUER

18 Daniel J. Berschauer
19 SUPERIOR COURT JUDGE, Thurston County

20
21 Presented by:

22 CUSHMAN LAW OFFICES, P.S.

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24 
25 Joseph Scuderi, WSBA #26623
26 Attorneys for Plaintiffs Nancy Armstrong,
27 E.J. Zita, Dean Anderson, Bobbe Anderson,
28 Edee Cornett, Carl Singleton, and Annette
Singleton