

1 ANTHONY CAPOBIANCO (SBN 162551)
DEREK WALLEN (SBN 214477)

2 **CAPOBIANCO LAW OFFICES, P.C.**

3 41990 Cook Street, Bldg. F, Suite 2006

4 Palm Desert, California 92211

5 Telephone: (760) 568-6500

6 Facsimile: (760) 568-0100

7 acapobianco@capobiancolaw.com

8 dwallen@capobiancolaw.com

9 Attorneys for Plaintiff

10 Trilogy at La Quinta Maintenance Association

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **COUNTY OF RIVERSIDE**

13 TRILOGY AT LA QUINTA
14 MAINTENANCE ASSOCIATION, a
15 California nonprofit mutual benefit
16 corporation,

17 Plaintiff,

18 v.

19 STRATOSPHERIC HOLDINGS 4, LLC, a
20 Michigan limited liability company; CBGM,
21 LLC, a California limited liability company;
22 JOSH GROSSMAN, an individual;
23 THOMAS BROWN, an individual; and
24 DOES 1 through 25 inclusive,

25 Defendants.

Case No. CVPS2103761

[Assigned to the Hon. Carol A. Greene]

**DECLARATION OF JIM SCHMID
IN SUPPORT OF PLAINTIFF'S EX
PARTE APPLICATION FOR AN
ORDER TO SHOW CAUSE RE
CONTEMPT AND OTHER RELIEF**

Date: Oct. 28, 2021

Time: 8:30 a.m.

Department: 2

Complaint filed: July 22, 2021

Trial date: None

DECLARATION OF JIM SCHMID

I, Jim Schmid, declare as follows:

1. I have personal knowledge of the facts stated in this declaration and they are true to the best of my knowledge. I am competent to testify to the facts stated in this declaration.

2. I am the Director of Operations for the Lakes Country Club in Palm Desert, California, a master planned community with approximately 1,238 homes and a 27-hole championship golf course. I have been employed in that position since 2016. I previously was the Golf Course Superintendent for the Lakes Country Club from 2011 through 2016. I have been employed as a Golf Course Superintendent and in similar positions in golf clubs in the Coachella Valley since 2006. In those capacities, I have been responsible for all aspects of golf course management and operations for many years, including but not limited to turf management, landscaping and water feature maintenance.

3. I have a degree in economics from Binghamton University, and I have a Golf Turf Management Certificate from Rutgers Golf Turf Management School, among other golf course-related certificates and continuing education, including that I am a California-licensed pesticide applicator for Golf, Landscape and Aquatics (QAL), a GCSAA class "A" superintendent, a Certified Golf Irrigation Auditor, a Certified Landscape Irrigation Auditor and a Certified Manager of Community Associations.

4. I have also been an Adjunct Professor at the College of the Desert where I taught classes in Advanced Turfgrass Management, Golf Course Management, Leadership, Careers, Turf and Landscape Pest Management, and Pesticide Laws and Regulations.

5. I am presently a member in good standing of the Hi-Lo Desert Golf Course Superintendents Association (where I serve as President), the California Golf Course Superintendents Association, the Golf Course Superintendents Association of America,

1 the Coachella Valley Golf and Water Task Force, the Club Managers Association of
2 America and the Community Association Institute of America. Over the years, I have
3 been a member of other organizations devoted to golf course management and related
4 issues.

5 6. Golf course "overseeding" refers to a process whereby the Bermuda grass
6 that grows on golf courses in the summer is replaced for the winter months, typically by
7 perennial rye grass.

8 7. Overseeding is necessary because when temperatures cool during the winter
9 months, Bermuda grass stops growing and becomes dormant. It dries out and becomes
10 totally brown.

11 8. As a result, failure to overseed totally destroys the appearance and visual
12 aesthetics of a golf course. In addition, because Bermuda grass does not grow in the
13 winter months, the golf course does not "repair itself" as golfers play on it. Areas where
14 people drive golf carts will get worn out, putting greens will be damaged from ball marks
15 and foot traffic, and greens will wear out in high-use areas.

16 9. All or nearly all golf courses in the Coachella Valley overseed in the fall to
17 avoid the degradation to the course described above.

18 10. Overseeding proceeds in three stages:

19 a. First, the existing Bermuda grass is cut very low, or "scalped," and
20 allowed to dry out. This generally takes five to seven days.

21 b. Second, the winter seed is put down on the course. This takes about
22 three days, and for reasons discussed below, nearly all golf courses in the Coachella
23 Valley have their new seed down by the end of October.


24 c. Third, there is a period of time where the golf course is rewatered so
25 the new seed can grow in. This takes about 21 to 35 days.

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

11. Time is of the essence when it comes to overseeding. If a course does not put down new seed by mid-November, the steadily cooling temperatures in the months that follow will impair the ability of the new seed to grow in.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Palm Desert, California this 26th day of October 2021.



Jim Schmid