

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT  
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ENTERED

H.G. SHOPPING CENTERS, L.P.,

Plaintiff,

*versus*

GALLERIA TOWNHOMES ASSOCIATION, INC.

Defendant.

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AUG 16 2000

Michael N. Windy, CLERK

Civil Action No. H-99-307

**Agreed Final Judgment And Permanent Injunction**

1. Plaintiff has alleged that Defendant's use of the name "GALLERIA" as part of the trade name and service mark for its business is likely to cause confusion as to defendant's affiliation with plaintiff or with plaintiff's famous real estate developments. Defendant has denied such allegations. Plaintiff and Defendant, to stop this litigation, have agreed to this Final Judgment.

2. Defendant is ordered, pursuant to 15 U.S.C. § 1118, to deliver up for destruction to plaintiff's General Counsel, at H.G. Shopping Centers, L.P., 5075 Westheimer, #875, Houston, Texas, 77056, within two months after entry of this judgment, all literature, signs, labels, prints, packages, wrappers, containers, advertising materials, stationery, any other items in its possession or control which contain the infringing designation "GALLERIA", either alone or in combination with other words or symbols, and all plates, molds, matrices, masters, and other means of making any of

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the infringing items, save and except the original and governing documents of defendant's condominium development.

3. Within two months after entry of this judgment defendant shall take the following actions. If defendant uses "GALLERIA" in a d/b/a, defendant shall (a) file a withdrawal certificate withdrawing the assumed name which has "GALLERIA" as part of the name, and (b) file a new assumed name certificate which does not have "GALLERIA" as part of the name. If defendant uses "GALLERIA" in a corporate name, defendant shall (a) change the name of the corporation to delete the term "GALLERIA", and (b) file amended articles of incorporation with the Texas Secretary of State, indicating the name change. For any telephone directory in which defendant has a listing which uses the name "Galleria", defendant shall request the telephone directory company to change the name of defendant's business to a name that does not use the name "Galleria". For any Internet domain name owned by defendant, which domain name includes the name "Galleria", defendant shall request the Internet domain name registrar to change the name of defendant's domain name to a name that does not use the name "Galleria". Defendant shall provide plaintiff's General Counsel and plaintiff's Attorney-in-Charge with a copy of all paperwork associated with the withdrawal certificate, the new assumed name, amended articles of incorporation, the filing of those articles with the Texas Secretary of State, and the requests to the telephone directory companies, and to the Internet domain name registrars.

4. Defendant and its agents, servants, and employees, and all others in concert or participation with them, are enjoined from using (a) "Galleria Area"; or (b) the

name "GALLERIA" as a part of defendant's trade name, or in any other manner, except as part of a truthful informational statement regarding the location of defendant's business with respect to the GALLERIA multi-use development, in which statement the word "Galleria" shall appear in the same size, format, color, and type style as the other words in the statement. Defendant shall be in compliance with these provisions no later than two months after entry of this judgment.


5. Defendant shall change its equipment and materials used for printing its invoices, so that two months after entry of this judgment, its invoices will be in conformance with this judgment.

6. Effective immediately, defendant shall not create, order, or contract for any invoices, literature, posters, cards, labels, prints, packages, wrappers, containers, advertising materials, or other items which contain the term "GALLERIA" in any form, except as specifically permitted in this judgment. Defendant shall deliver a written certification to plaintiff's General Counsel and to plaintiff's Attorney-in-Charge, two months after entry of this judgment, that defendant has changed all invoices, listings, advertisements, and signs to be in conformance with this judgment.


7. Plaintiff is allowed all such writs and processes as may be necessary to enforce this judgment. Further, in the event plaintiff brings contempt proceedings to enforce this judgment, plaintiff shall be entitled to recover all reasonable attorney's fees incurred in any such proceedings.

8. All relief not expressly granted is denied.

Signed this 16<sup>th</sup> day of August, 2000.

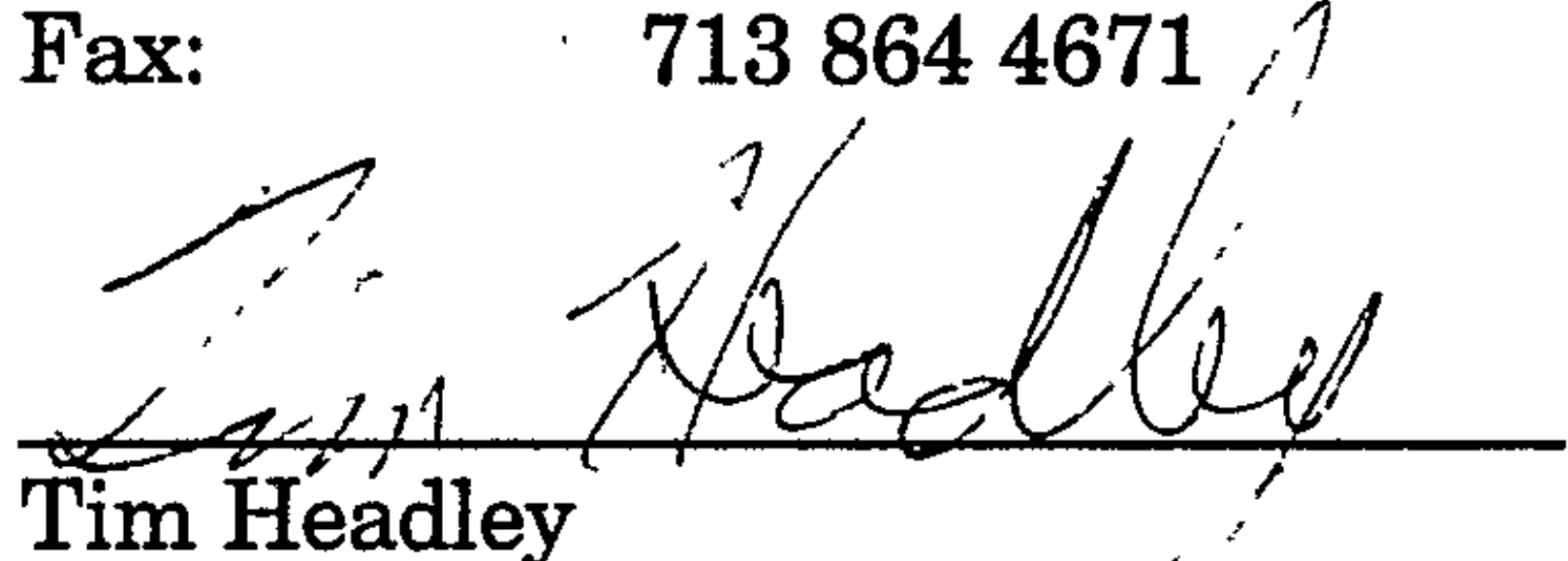
  
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Nancy Johnson  
United States Magistrate Judge

**Approved as to form and substance:**

  
\_\_\_\_\_  
William K. Luyties

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Date: August 8, 2000

  
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Date: 8-11-00