

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

HIGH NOON AT ARLINGTON RANCH
HOMEOWNERS ASSOCIATION, a Nevada
non-profit corporation, for itself and for all
others similarly situated,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT
in and for Clark County; and THE HONORABLE
SUSAN H. JOHNSON, in her capacity as District
Judge in and for Clark County,

Respondents.

D.R. HORTON, INC.,

Real-Party-In-Interest.

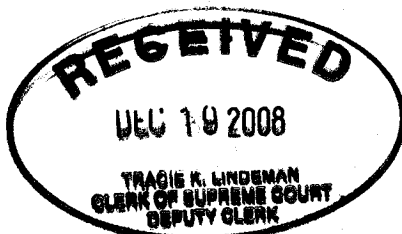
Case No. 52798
Clark County District
Court No. A542616

FILED

DEC 19 2008
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

**AFFIDAVIT OF JAMES R. CHRISTENSEN, ESQ., IN SUPPORT OF
HIGH NOON AT ARLINGTON RANCH HOMEOWNERS ASSOCIATION'S
PETITION FOR WRIT OF PROHIBITION OR MANDAMUS**

NANCY QUON
Nevada Bar No. 6099
JASON W. BRUCE
Nevada Bar No. 6916
JAMES R. CHRISTENSEN
Nevada Bar No. 3861
QUON BRUCE CHRISTENSEN
2330 Paseo del Prado, Suite C-101
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08-32283

1 **STATE OF NEVADA**)
)
2 **COUNTY OF CLARK**) ss.

3 I, James R. Christensen, Esq., being first duly sworn on oath, deposes and states under
4 penalty of perjury that the following assertions are true and correct of my own personal
5 knowledge:

6 1. I am an attorney representing the High Noon at Arlington Ranch Homeowners
7 Association in this matter. I am licensed to practice law in Nevada and am competent to testify
8 to the matters set forth herein. The information I provide is based upon my personal knowledge
9 and that reasonably relied upon by counsel in complex construction defect matters.

10 2. This Affidavit is submitted in support of the Petition for Writ of Prohibition or
11 Mandamus of High Noon at Arlington Ranch Homeowners Association.

12 3. I have discussed the Petition for Writ of Prohibition or Mandamus with the
13 petitioner and have obtained authorization to file the petition.

14 4. This Petition is being pursued because the Eighth Judicial District Court of
15 Nevada, Department XXII, abused its discretion by dismissing numerous construction defect and
16 warranty claims of the Association which sought repair or compensation on behalf of all
17 members of the common interest community.

18 5. When the District Court erroneously and in abuse of its discretion found that the
19 Association did not have standing to pursue claims on behalf of its members in contrary to the
20 plain wording of Nevada Revised Statutes and the Uniform Common Interest Ownership Act and
21 all other jurisdictions which have addressed the issue; the Association, and its members were
22 deprived of the benefits of the uniform act and of the ability to obtain redress and repairs on
23 behalf of the entire Association. As a result, the common interest community will be subject to
24 disparate repairs as owners choose to pursue individual claims and uncoordinated repairs, or no
25 repairs. The common interest community will continue to deteriorate, property values of all
26 members will be negatively effected, and the benefit of concerted action through Association
27 membership will be lost.

28 6. Further, instead of one case the district court could be faced with hundreds of

1 individual claims, with the possibility of disparate filing dates which would prevent
2 consolidation. Judicial economy is not served by the district court decision, nor the parties
3 interests as the possibility of inconsistent results is substantial.

4 7. There is no plain, speedy or adequate remedy at law. The trial date for the
5 remainder of the Associations claims is June 14, 2010. If tried beginning on that date, an appeal
6 of the decision of the district court would take additional time to resolve, during which the
7 Association will continue to decay, and individual homeowners may have pursued claims in
8 which disparate results may have been obtained.

9 8. Further, the decision rendered by the District Court differs from the ruling by at
10 least one of the other two departments tasked with handling construction defect cases in the
11 Eighth Judicial District Court. Public policy requires that the Petition submitted be heard to
12 avoid an "Association standing" lottery when cases are filed.

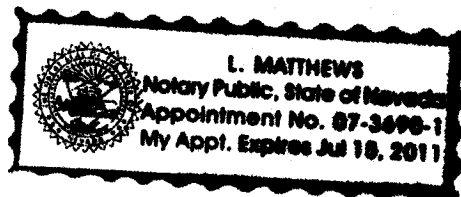
13 9. Affiant affirms under penalty of perjury that the affirmations of this Affidavit are
14 true.

15 FURTHER AFFIANT SAYETH NAUGHT.

16
17
18 
JAMES R. CHRISTENSEN

19
20 SUBSCRIBED AND SWORN to
before me this 17th day of December, 2008.

21
22 
23 Notary Public



1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of QUON BRUCE
3 CHRISTENSEN, and that on the 17th day of December, 2008, I caused the attached
4 **AFFIDAVIT OF JAMES R. CHRISTENSEN, ESQ., IN SUPPORT OF HIGH NOON AT**
5 **ARLINGTON RANCH HOMEOWNERS ASSOCIATION'S PETITION FOR WRIT OF**
6 **PROHIBITION OR MANDAMUS** to be served by placing a true and correct copy of the
7 same in the U.S. Mail at Las Vegas, Nevada, first class postage was fully prepaid to the
8 addresses listed below:

9 Honorable Judge Susan H. Williams
10 Regional Justice Center
11 District Court, Dept. 22
200 Lewis Avenue
Las Vegas, NV 89101

Respondent

12 Joel D. Odou, Esq.
13 Stephen N. Rosen, Esq.
14 Wood, Smith, Henning & Berman LLP
7670 W Lake Mead Boulevard, Suite 250
Las Vegas, NV 89128

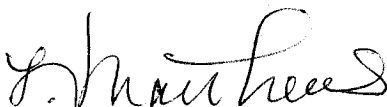
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**Attorneys for Amicus Curiae
Safe Homes Nevada**

20 

21 An employee of QUON BRUCE CHRISTENSEN