

1 **\$2515**
2 **WOLF, RIFKIN, SHAPIRO,**
3 **SCHULMAN & RABKIN, LLP**
4 DON SPRINGMEYER, ESQ. (NSB: 1021)
5 BRADLEY SCHRAGER, ESQ. (NSB: 10217)
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15 *Attorneys for Somersett Owners Association*

Electronically Filed
Nov 01 2019 03:19 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

16 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND**
17 **FOR THE COUNTY OF WASHOE**

18 SOMERSETT OWNERS ASSOCIATION, a
19 Domestic Non-Profit Corporation,

20 Plaintiff,

21 vs.

22 SOMERSETT DEVELOPMENT COMPANY,
23 LTD, a Nevada Limited Liability Company;
24 SOMERSETT, LLC a dissolved Nevada
25 Limited Liability Company; SOMERSETT
26 DEVELOPMENT CORPORATION, a
27 dissolved Nevada Corporation; PARSONS
28 BROS ROCKERIES, INC. a Washington
Corporation; Q & D Construction, Inc., a
Nevada Corporation, and DOES 1 through 50,
inclusive,

Defendants.

AND RELATED CROSS-ACTIONS.

Case No. CV17-02427

Dept. No.: 10

Judge: Hon. Elliott A. Sattler

NOTICE OF APPEAL

Pursuant to NRAP 3A, Plaintiff Somersett Owners Association, by and through its counsel,
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, hereby appeals to the Supreme Court of Nevada
the Order Granting Defendants' Motion for Summary Judgment, entered on October 2, 2019.

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AFFIRMATION

The undersigned does hereby affirm, pursuant to NRS 239B.030, that this document and any attachments do not contain personal information as defined in NRS 603A.040 about any person.

DATED this 29th day of October, 2019.

**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

By: /s/ John Samberg

DON SPRINGMEYER, ESQ. (NSB: 1021)
BRADLEY SCHRAGER, ESQ. (NSB: 10217)
JOHN SAMBERG, ESQ. (NSB: 10828)
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(775) 853-6787/Fax (775) 853-6774
*Attorneys for Plaintiff Somersett Owners
Association*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 29th day of October, 2019, I electronically filed the foregoing
3 **NOTICE OF APPEAL** was served via the Washoe County E-Flex Filing System on all parties or
4 persons requesting notice:

5 Charles Burcham, Esq.
6 Wade Carner, Esq.
7 Thorndal, Armstrong, Delk, Balkenbush & Eisinger
8 for SOMERSETT DEVELOPMENT
9 CORPORATION, SOMERSETT, LLC.,
10 SOMERSETT DEVELOPMENT COMPANY LTD
11 E-Mail: clb@thorndal.com
12 E-Mail: wnc@thorndal.com

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10 Natasha Landrum, Esq.
11 Dirk W. Gaspar, Esq.
12 David Lee, Esq.
13 Lee, Hernandez, Landrum & Carlson, APC
14 for Q & D CONSTRUCTION, INC.
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E-Mail: dlee@lee-lawfirm.com

Theodore E. Chrissinger, Esq.
Michael S. Kimmel, Esq.
Hoy, Chrissinger, Kimmel, Vallas P.C.
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Email: tchrissinger@nevadalaw.com
Email: mkimmel@nevadalaw.com

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16 By /s/ Dannielle Fresquez
17 Dannielle Fresquez, an employee of
18 WOLF, RIFKIN, SHAPIRO, SCHULMAN &
19 RABKIN, LLP
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WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP
DON SPRINGMEYER, ESQ. (NSB: 1021)
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Attorneys for Somerset Owners Association

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND
FOR THE COUNTY OF WASHOE**

SOMERSETT OWNERS ASSOCIATION, a
Domestic Non-Profit Corporation,

Plaintiff,

vs.

SOMERSETT DEVELOPMENT COMPANY,
LTD, a Nevada Limited Liability Company;
SOMERSETT, LLC a dissolved Nevada
Limited Liability Company; SOMERSETT
DEVELOPMENT CORPORATION, a
dissolved Nevada Corporation; PARSONS
BROS ROCKERIES, INC. a Washington
Corporation; Q & D Construction, Inc., a
Nevada Corporation, and DOES 1 through 50,
inclusive,

Defendants.

AND RELATED CROSS-ACTIONS.

Case No. CV17-02427

Dept. No.: 10

Judge: Hon. Elliott A. Sattler

CASE APPEAL STATEMENT

Plaintiff Somerset Owners Association, by and through its counsel, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, hereby submits this Case Appeal Statement pursuant to NRAP 3(f)(1).

1. Appellant filing this appeal statement: Somerset Owners Association
2. Judge issuing decision, judgment, or order appealed from: Hon. Elliott A. Sattler

1 3. Appellant: Plaintiff Somerset Owners Association

2 COUNSEL OF RECORD:

3 Don Springmeyer, Esq.

4 Bradley Schrager, Esq.

5 John Samberg, Esq.

6 Roi Moas, Esq.

7 Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP

8 5594-B Longley Lane

9 Reno, Nevada 89511

10 dspringmeyer@wrslawyers.com

11 bschrager@wrslawyers.com

12 jsamberg@wrslawyers.com

13 rmoas@wrslawyers.com

14 4. Respondent: Defendants Somerset Development Company Ltd., Somerset, LLC,
15 and Somerset Development Corporation

16 COUNSEL OF RECORD:

17 Charles Burcham, Esq.

18 Wade Carner, Esq.

19 Thorndal, Armstrong, Delk, Balkenbush & Eisinger

20 6590 S. McCarran, Suite B

21 Reno, Nevada 89509

22 clb@thorndal.com

23 wnc@thorndal.com

24 Respondent: Defendant Parsons Bros Rokerries, Inc.

25 COUNSEL OF RECORD:

26 Steve Castronova, Esq.

27 Castronova Law Offices, P.C.

28 605 Forest Street

 Reno, Nevada 89509

 sgc@castronovaLaw.com

 Respondent: Defendant Q & D Construction, Inc.

 COUNSEL OF RECORD:

 Natasha Landrum, Esq.

 Dirk W. Gaspar, Esq.

 David Lee, Esq.

 Lee, Hernandez, Landrum & Carlson, APC

 7575 Vegas Drive, Suite 150

 Las Vegas, Nevada 89128

 dgaspar@lee-lawfirm.com

 nlandrum@lee-lawfirm.com

 dlee@lee-lawfirm.com

Respondent: Third-Party Defendant Stantec Consulting Services, Inc.

COUNSEL OF RECORD:

Theodore E. Chrissinger, Esq.
Michael S. Kimmel, Esq.
Hoy, Chrissinger, Kimmel, Vallas P.C.
50 W. Liberty St., Suite 840
Reno, Nevada 89501
tchrissinger@nevadalaw.com
mkimmel@nevadalaw.com

5. All other counsel identified above are licensed to practice in Nevada.

6. Appellant was represented by retained counsel in the district court.

7. Appellant is represented by retained counsel on appeal.

8. No request has been made to proceed in forma pauperis.

9. The Complaint in this matter was originally filed on December 29, 2017.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by district court.

This is a civil matter concerning claims for liability involving defects and failures of several miles of rockery walls at a the Somerset planned unit development community in Reno, Nevada. Plaintiff is the owners' association. The district court granted summary judgment in favor of all of the Defendants. Issues of law and fact were before the Court, and focused primarily upon when limitations periods accrued, the common law definition of substantial completion, whether the statutory tolling of certain statutes of limitations also served to toll the statute of repose, and whether equitable tolling applied to the statute of repose. Among other rulings, the Court determined that the statute of repose applied to all claims, that all claims accrued at the same time, and that the statute of repose was not tolled.

11. The case has not been subject of an appeal to or original writ proceeding in the Supreme Court.

12. This appeal does not involve child custody or visitation.

13. While settlement thus far has not seemed likely, Plaintiff/Appellant will participate in the Court's mandatory mediation program in good faith, and with an open mind to the

1 possibility of settlement.

2 **AFFIRMATION**

3 The undersigned does hereby affirm, pursuant to NRS 239B.030, that this document and
4 any attachments do not contain personal information as defined in NRS 603A.040 about any
5 person.

6 DATED this 29th day of October, 2019.

7 **WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP**

8 By: /s/ John Samberg

9 DON SPRINGMEYER, ESQ. (NSB: 1021)

10 BRADLEY SCHRAGER, ESQ. (NSB: 10217)

11 JOHN SAMBERG, ESQ. (NSB 10828)

12 ROYI MOAS, ESQ. (NSB 10686)

13 5594 B Longley Lane

14 Reno, Nevada 89511

15 *Attorneys for Plaintiff Somersett Owners Association*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 29th day of October, 2019, I electronically filed the foregoing
3 **CASE APPEAL STATEMENT** was served via the Washoe County E-Flex Filing System on all
4 parties or persons requesting notice:

5 Charles Burcham, Esq.
6 Wade Carner, Esq.
7 Thorndal, Armstrong, Delk, Balkenbush & Eisinger
8 for SOMERSETT DEVELOPMENT
9 CORPORATION, SOMERSETT, LLC.,
SOMERSETT DEVELOPMENT COMPANY LTD
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E-Mail: wnc@thorndal.com

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10 Natasha Landrum, Esq.
11 Dirk W. Gaspar, Esq.
12 David Lee, Esq.
13 Lee, Hernandez, Landrum & Carlson, APC
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16
17 By /s/ Dannielle Fresquez
18 Dannielle Fresquez, an employee of
19 WOLF, RIFKIN, SHAPIRO, SCHULMAN &
20 RABKIN, LLP
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SECOND JUDICIAL DISTRICT COURT**STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV17-02427****Case Description: SOMERSETT OWNERS ASSOC VS SOMERSETT DEV. ETAL (D10)****Case Number: CV17-02427 Case Type: CHAPTER 40 CONSTRUCTION DEFECT - Initially Filed On: 12/29/2017****Parties**

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - DAVID A. HARDY - D15	Party ended on: 7/12/2018 10:16:49AM
JUDG - ELLIOTT A. SATTLER - D10	Active
PLTF - SOMERSETT OWNERS ASSOCIATION - @1186671	Active
DEFT - SOMERSETT DEVELOPMENT CORPORATION - @1152258	Active
DEFT - PARSONS BROS. ROCKERIES CALIFORNIA INC DBA PARSONS WALLS - @1318200	Active
DEFT - Q & D CONSTRUCTION, INC. - @1304132	Active
DEFT - SOMERSETT, LLC. - @1174674	Active
DEFT - SOMERSETT DEVELOPMENT COMPANY LTD. - @1129114	Active
DEFT - PARSONS ROCKSI, LLC. - @1323450	Party ended on: 5/10/2018 12:00:00AM
DEFT - PARSONS BROS. ROCKERIES, CA, INC. - @1318199	Active
DEFT - STANTEC CONSULTING SERVICES INC. - @1328698	Active
ATTY - Theodore E. Chrissinger, Esq. - 9528	Active
ATTY - Dirk W. Gaspar, Esq. - 10046	Active
ATTY - Natasha A. Landrum, Esq. - 7414	Active
ATTY - David S. Lee, Esq. - 6033	Active
ATTY - Don Springmeyer, Esq. - 1021	Active
ATTY - Wade Carner, Esq. - 11530	Active
ATTY - Michael S. Kimmel, Esq. - 9081	Active
ATTY - Royi Moas, Esq. - 10686	Active
ATTY - Stephen G. Castronova, Esq. - 7305	Active
ATTY - Charles L. Burcham, Esq. - 2673	Active
ATTY - John M. Samberg, Esq. - 10828	Active

Disposed Hearings

- 1 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/6/2019 at 15:23:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSET OWNERS ASSOCIATION FILED 4-24-19
Event Disposition: S200 - 6/7/2019
- 2 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/11/2019 at 13:06:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION AND CROSS-CLAIMANT, SOMERSET
Event Disposition: S200 - 7/2/2019
- 3 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/11/2019 at 16:00:00
Extra Event Text: REQUEST FOR SUBMISSION OF SDC'S MOTION FOR SUMMARY JUDGMENT FILED 3/27/19
Event Disposition: S200 - 7/2/2019
- 4 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/11/2019 at 15:59:00
Extra Event Text: REQUEST FOR SUBMISSION OF SDC'S MOTION FOR SUMMARY JUDGMENT FILED 3/26/19
Event Disposition: S200 - 7/2/2019

- 5 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/12/2019 at 14:34:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT FILED 3/26/19
Event Disposition: S200 - 7/2/2019
- 6 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 6/12/2019 at 13:59:00
Extra Event Text: PLAINTIFFS' MOTION TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTES OF LIMITATIONS AND REPOSE FILED 1-17
Event Disposition: S200 - 7/2/2019
- 7 Department: D10 -- Event: HEARING... -- Scheduled Date & Time: 7/15/2019 at 13:30:00
Extra Event Text: HEARING ON SOMERSETT MOTION FOR S.J.; MOTION TO STRIKE; SOMERSETT DEV.'S MOTION FOR S.J. (1:30-5:00)(COURT REPT. REQ
Event Disposition: D435 - 7/15/2019
- 8 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 7/30/2019 at 09:00:00
Extra Event Text: PLAINTIFF'S MOTION TO STRIKE; DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND SOMERSETT'S MOTION FOR SUMMARY JUD
Event Disposition: S200 - 10/2/2019
- 9 Department: D10 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 1/10/2020 at 09:00:00
Extra Event Text: PRETRIAL CONFERENCE (JURY TRIAL SET FOR FEBRUARY 3, 2020)(1/2 HOUR)
Event Disposition: D870 - 5/8/2019
- 10 Department: D10 -- Event: TRIAL - JURY -- Scheduled Date & Time: 2/3/2020 at 08:30:00
Extra Event Text: NO. 1 SETTING-JURY TRIAL-CONSTRUCTION DEFECT MATTER (3 WEEKS)
Event Disposition: D870 - 5/8/2019

Actions

- | | <u>Filing Date</u> | <u>-</u> | <u>Docket Code & Description</u> |
|---|--------------------|----------|---|
| 1 | 12/29/2017 | - | \$1427 - \$Complaint - Construct Defect
Additional Text: Transaction 6458851 - Approved By: YVILORIA : 12-29-2017:13:12:31 |
| 2 | 12/29/2017 | - | PAYRC - **Payment Receipted
Additional Text: A Payment of \$510.00 was made on receipt DCDC596089. |
| 3 | 1/5/2018 | - | 2610 - Notice ...
Additional Text: NOTICE OF DEPOSIT OF CD |
| 4 | 1/8/2018 | - | COC - Evidence Chain of Custody Form
<i>No additional text exists for this entry.</i> |
| 5 | 1/8/2018 | - | 4090 - ** Summons Issued
Additional Text: X3 |
| 6 | 1/8/2018 | - | 4090 - ** Summons Issued
Additional Text: x6 |
| 7 | 4/11/2018 | - | 1120 - Amended ...
Additional Text: DOE AMENDMENT TO PLAINTIFF'S COMPLAINT TO SUBSTITUTE TRUE NAMES FOR FICTITIOUS NAMES - Transaction 6624769 - Approved By: JAPARICI : 04-12-2018:10:16:24 |
| 8 | 4/12/2018 | - | NEF - Proof of Electronic Service
Additional Text: Transaction 6625508 - Approved By: NOREVIEW : 04-12-2018:10:17:36 |
| 9 | 4/13/2018 | - | 4090 - ** Summons Issued
Additional Text: x2 |

- 10 4/13/2018 - 4090 - ** Summons Issued
Additional Text: X2
- 11 4/17/2018 - 4085 - Summons Filed
Additional Text: SAMUEL GARCIA OBO PARSONS BROS, ROCKERIES CA INC CO/ KEVIN PARSON REGISTERED AGENT - APRIL 12, 2018; 11:22 AM - Transaction 6634017 - Approved By: YVILORIA : 04-17-2018:15:25:43
- 12 4/17/2018 - 4085 - Summons Filed
Additional Text: BILL MAGRATH, MGR - OFFICE OF SIERRA CORP. SERVICES ENO REGISTERED AGENT FOR Q&D CONSTRUCTION INC - APR 16, 2018; 11:46 AM - Transaction 6634017 - Approved By: YVILORIA : 04-17-2018:15:25:43
- 13 4/17/2018 - 4085 - Summons Filed
Additional Text: BILL MAGRATH, MGR - OFFICE OF SIERRA CORP. SERVICES RENO REGISTERED AGENT SOMERSETT DEVELOPMENT CO LTD - APR 16, 2018; 11:46 AM - Transaction 6634017 - Approved By: YVILORIA : 04-17-2018:15:25:43
- 14 4/17/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6634262 - Approved By: NOREVIEW : 04-17-2018:15:26:51
- 15 4/18/2018 - 4085 - Summons Filed
Additional Text: PARSONS BROS. ROCKERIES, INC. 04/16/18 @9:26AM - Transaction 6636855 - Approved By: CVERA : 04-18-2018:16:53:47
- 16 4/18/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6637039 - Approved By: NOREVIEW : 04-18-2018:16:55:00
- 17 4/19/2018 - 4085 - Summons Filed
Additional Text: DECLARATION OF SERVICE - R/A FOR PARSONS ROCKS! LLC 4/17/18 - Transaction 6639004 - Approved By: CSULEZIC : 04-19-2018:15:45:59
- 18 4/19/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6639135 - Approved By: NOREVIEW : 04-19-2018:15:47:21
- 19 4/20/2018 - 4085 - Summons Filed
Additional Text: PARSONS BROS ROCKERIES CALIFORNIA INC dba PARSONS WALLS - Transaction 6639602 - Approved By: KTOMBOW : 04-20-2018:09:11:14
- 20 4/20/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6639657 - Approved By: NOREVIEW : 04-20-2018:09:12:15
- 21 4/20/2018 - 4085 - Summons Filed
Additional Text: SOMERSETT DEVELOPMENT CORPORATION, 4/17/18 - Transaction 6640598 - Approved By: CSULEZIC : 04-20-2018:14:16:45
- 22 4/20/2018 - 4085 - Summons Filed
Additional Text: SOMERSETT LLC , 4/17/18 - Transaction 6640598 - Approved By: CSULEZIC : 04-20-2018:14:16:45
- 23 4/20/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6640852 - Approved By: NOREVIEW : 04-20-2018:14:18:04
- 24 4/27/2018 - 3995 - Stip & Ord Dismiss W/O Prej
Additional Text: OF CASE - Transaction 6651259 - Approved By: NOREVIEW : 04-27-2018:09:12:34
- 25 4/27/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6651264 - Approved By: NOREVIEW : 04-27-2018:09:13:40
- 26 4/27/2018 - FIE - **Document Filed in Error
No additional text exists for this entry.

- 27 5/2/2018 - 1090 - Amended Complaint
Additional Text: FIRST AMENDED COMPLAINT FOR DAMAGES - Transaction 6660069 - Approved By: YVILORIA : 05-02-2018:15:57:21
- 28 5/2/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6660280 - Approved By: NOREVIEW : 05-02-2018:15:58:21
- 29 5/3/2018 - 1090 - Amended Complaint
Additional Text: FIRST AMENDED COMPLAINT FOR DAMAGES (CORRECTED) - Transaction 6662726 - Approved By: YVILORIA : 05-03-2018:16:56:24
- 30 5/3/2018 - 1650 - Errata...
Additional Text: NOTICE OF ERRATA TO FIRST AMENDED COMPLAINT - Transaction 6662726 - Approved By: YVILORIA : 05-03-2018:16:56:24
- 31 5/3/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6662932 - Approved By: NOREVIEW : 05-03-2018:16:59:21
- 32 5/10/2018 - 3995 - Stip & Ord Dismiss W/O Prej
Additional Text: PARSONS ROCKS! LLC - Transaction 6672575 - Approved By: NOREVIEW : 05-10-2018:09:35:08
- 33 5/10/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6672590 - Approved By: NOREVIEW : 05-10-2018:09:37:09
- 34 6/21/2018 - JF - **First Day Jury Fees Deposit
Additional Text: SOMERSETT OWNERS ASSOCIATION - Transaction 6739304 - Approved By: PMSEWELL : 06-21-2018:09:39:25
- 35 6/21/2018 - 1580 - Demand for Jury
Additional Text: SOMERSETT OWNERS ASSOCIATION - Transaction 6739304 - Approved By: PMSEWELL : 06-21-2018:09:39:25
- 36 6/21/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$320.00 was made on receipt DCDC612488.
- 37 6/21/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6739344 - Approved By: NOREVIEW : 06-21-2018:09:42:29
- 38 6/26/2018 - 4085 - Summons Filed
Additional Text: LEO BERGIN PERSON IN CHARGE OFFICE OF SIERRA CORP. SERVICES RENO REGISTERED AGENT FOR Q & D CONSTRUCTION INC - JUNE 19, 2018 - Transaction 6746356 - Approved By: YVILORIA : 06-26-2018:08:57:26
- 39 6/26/2018 - 4085 - Summons Filed
Additional Text: JENNI CHAPMAN, ADMIN ASST OFFICE OF GBS ADVISORS INC REGISTERED AGENT FOR SOMERSETT DEVELOPMENT CORP. - JUNE 19, 2018 - Transaction 6746356 - Approved By: YVILORIA : 06-26-2018:08:57:26
- 40 6/26/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6746555 - Approved By: NOREVIEW : 06-26-2018:08:58:26
- 41 6/26/2018 - 4085 - Summons Filed
Additional Text: SERVED JOHN DOE OBO PARSONS BROS ROCKERIES, INC. ON 6/18/18 - Transaction 6747112 - Approved By: PMSEWELL : 06-26-2018:11:49:55
- 42 6/26/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6747302 - Approved By: NOREVIEW : 06-26-2018:11:50:53
- 43 7/12/2018 - 3161 - Ord of Recusal
Additional Text: DIRECTING RANDOM REASSIGNMENT - Transaction 6772294 - Approved By: NOREVIEW : 07-12-2018:08:53:26
- 44 7/12/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6772298 - Approved By: NOREVIEW : 07-12-2018:08:56:09

- 45 7/12/2018 - 1312 - Case Assignment Notification
Additional Text: RANDOMLY REASSIGNED TO D10 FROM D15 DUE TO ORDER OF RECUSAL FILED 7/12/18 - Transaction 6772644 - Approved By: NOREVIEW : 07-12-2018:10:21:57
- 46 7/12/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6772649 - Approved By: NOREVIEW : 07-12-2018:10:22:56
- 47 7/17/2018 - 4085 - Summons Filed
Additional Text: LEO BERGIN 6/19/18 @11:23AM SOMERSETT DEVELOPMENT COMPANY - Transaction 6779717 - Approved By: CVERA : 07-17-2018:11:14:16
- 48 7/17/2018 - 4085 - Summons Filed
Additional Text: JENNI CHAPMAN FOR SOMERSETT 06/19/18 @10:12AM - Transaction 6779717 - Approved By: CVERA : 07-17-2018:11:14:16
- 49 7/17/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6780057 - Approved By: NOREVIEW : 07-17-2018:11:15:22
- 50 8/13/2018 - 1817 - Initial Appear. Fee Disclosure
Additional Text: Transaction 6826806 - Approved By: CSULEZIC : 08-14-2018:08:33:34
- 51 8/13/2018 - \$1132 - \$Answer - Construct Defect
Additional Text: Q&D CONSTRUCTION, INC.'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES - Transaction 6826806 - Approved By: CSULEZIC : 08-14-2018:08:33:34
- 52 8/14/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$463.00 was made on receipt DCDC617237.
- 53 8/14/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6827496 - Approved By: NOREVIEW : 08-14-2018:08:34:46
- 54 8/17/2018 - \$1567 - \$Def 1st App -Construct Defect
Additional Text: SOMERSETT DEVELOPMENT COMPANY, LTD - Transaction 6836297 - Approved By: YVILORIA : 08-20-2018:08:14:53
- 55 8/17/2018 - 1140 - Answer to Amended Complaint
Additional Text: ANSWER TO FIRST AMENDED COMPLAINT AND CROSS-CLAIM - Transaction 6836297 - Approved By: YVILORIA : 08-20-2018:08:14:53
- 56 8/17/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear
Additional Text: SOMERSETT DEVELOPMENT CORPORATION - Transaction 6836297 - Approved By: YVILORIA : 08-20-2018:08:14:53
- 57 8/17/2018 - \$DEFT - \$Addl Def/Answer - Prty/Appear
Additional Text: SOMERSETT, LLC - Transaction 6836297 - Approved By: YVILORIA : 08-20-2018:08:14:53
- 58 8/17/2018 - JF - **First Day Jury Fees Deposit
Additional Text: Transaction 6836303 - Approved By: YVILORIA : 08-20-2018:08:25:13
- 59 8/17/2018 - 1580 - Demand for Jury
Additional Text: DEFTS SOMERSETT DEVELOPMENT CO., LTD, SOMERSETT LLC AND SOMERSETT DEVELOPMENT CORP. - Transaction 6836303 - Approved By: YVILORIA : 08-20-2018:08:25:13
- 60 8/20/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$523.00 was made on receipt DCDC617690.
- 61 8/20/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6836550 - Approved By: NOREVIEW : 08-20-2018:08:15:53

- 62 8/20/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$320.00 was made on receipt DCDC617691.
- 63 8/20/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6836592 - Approved By: NOREVIEW : 08-20-2018:08:26:11
- 64 8/21/2018 - \$1567 - \$Def 1st App -Construct Defect
Additional Text: PARSONS BROS ROCKERIES, INC. - Transaction 6839753 - Approved By: YVILORIA : 08-21-2018:12:57:44
- 65 8/21/2018 - 1140 - Answer to Amended Complaint
Additional Text: PARSONS BROS ROCKERIES, INC.'S ANSWER TO FIRST AMENED COMPLAINTE FOR DAMAGES (CORRECTED) - Transaction 6839753 - Approved By: YVILORIA : 08-21-2018:12:57:44
- 66 8/21/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$463.00 was made on receipt DCDC617848.
- 67 8/21/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6840106 - Approved By: NOREVIEW : 08-21-2018:12:58:43
- 68 8/23/2018 - 1155 - Answer to Cross Claim
Additional Text: Parsons Bros Rockeries, Inc.'s Answer to Somersett Development Company, Ltd's Cross-Claim - Transaction 6846355 - Approved By: PMSEWELL : 08-24-2018:08:58:34
- 69 8/24/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6846666 - Approved By: NOREVIEW : 08-24-2018:08:59:38
- 70 8/29/2018 - 4090 - ** Summons Issued
No additional text exists for this entry.
- 71 8/29/2018 - \$4180 - \$Third Party Complaint
Additional Text: Transaction 6854910 - Approved By: JAPARICI : 08-29-2018:15:51:13
- 72 8/29/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$135.00 was made on receipt DCDC618744.
- 73 8/29/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6855630 - Approved By: NOREVIEW : 08-29-2018:15:53:21
- 74 8/29/2018 - 1005 - Acceptance of Service
Additional Text: Transaction 6855960 - Approved By: CVERA : 08-30-2018:08:40:01
- 75 8/30/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6856171 - Approved By: NOREVIEW : 08-30-2018:08:41:11
- 76 8/30/2018 - 1165 - Answer Third Party Complaint
Additional Text: Transaction 6858368 - Approved By: CVERA : 08-31-2018:08:44:00
- 77 8/30/2018 - \$1560 - \$Def 1st Appearance - CV
Additional Text: STANTEC CONSULTING, INC. - Transaction 6858368 - Approved By: CVERA : 08-31-2018:08:44:00
- 78 8/31/2018 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$213.00 was made on receipt DCDC618878.
- 79 8/31/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6858778 - Approved By: NOREVIEW : 08-31-2018:08:45:14

- 80 8/31/2018 - 3840 - Request Exemption Arbitration
Additional Text: Transaction 6860205 - Approved By: NMASON : 08-31-2018:14:14:56
- 81 8/31/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6860223 - Approved By: NOREVIEW : 08-31-2018:14:15:58
- 82 9/4/2018 - 2501 - Non-Opposition ...
Additional Text: NON-OPPOSITION TO PLAINTIFFS REQUEST FOR EXEMPTION FROM ARBITRATION - Transaction 6862147 - Approved By: CSULEZIC : 09-04-2018:14:55:18
- 83 9/4/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6862174 - Approved By: NOREVIEW : 09-04-2018:14:56:15
- 84 9/11/2018 - A190 - Exempt from Arb (over \$50,000)
Additional Text: Transaction 6874336 - Approved By: NOREVIEW : 09-11-2018:16:42:53
- 85 9/11/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6874358 - Approved By: NOREVIEW : 09-11-2018:16:45:36
- 86 9/18/2018 - 2610 - Notice ...
Additional Text: NOTICE OF CASE SETTING CONFERENCE PER WDCR4(3) 10/02/18 @10:00 - Transaction 6885645 - Approved By: CSULEZIC : 09-18-2018:16:51:37
- 87 9/18/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6886348 - Approved By: NOREVIEW : 09-18-2018:16:52:51
- 88 9/25/2018 - 3696 - Pre-Trial Order
Additional Text: Transaction 6896816 - Approved By: NOREVIEW : 09-25-2018:11:59:36
- 89 9/25/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6896824 - Approved By: NOREVIEW : 09-25-2018:12:00:44
- 90 9/25/2018 - 2540 - Notice of Entry of Ord
Additional Text: NOTICE OF ENTRY OF ORDER EXEMPTING CASE FROM COURT ANNEXED ARBITRATION PROGRAM - Transaction 6897534 - Approved By: NOREVIEW : 09-25-2018:15:34:50
- 91 9/25/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6897538 - Approved By: NOREVIEW : 09-25-2018:15:35:58
- 92 9/28/2018 - 1155 - Answer to Cross Claim
Additional Text: Q&D Construction, Inc.'s Answer to Somerset's Cross-Claim - Transaction 6903290 - Approved By: CVERA : 09-28-2018:13:56:46
- 93 9/28/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6903512 - Approved By: NOREVIEW : 09-28-2018:13:57:45
- 94 10/3/2018 - 1250E - Application for Setting eFile
Additional Text: FOR PRETRIAL CONFERENCE ON JANUARY 10, 2020 AT 9:00 A.M. AND JURY TRIAL ON FEBRUARY 3, 2020, AT 8:30 A.M. - Transaction 6909053 - Approved By: NOREVIEW : 10-03-2018:10:57:32
- 95 10/3/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6909056 - Approved By: NOREVIEW : 10-03-2018:10:58:28
- 96 10/11/2018 - 1475 - Consent ...
Additional Text: CONSENT TO SERVICE BY ELECTRONIC MEANS - Transaction 6922724 - Approved By: PMSEWELL : 10-11-2018:10:43:26

- 97 10/11/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6922849 - Approved By: NOREVIEW : 10-11-2018:10:44:24
- 98 10/17/2018 - 1835 - Joint Case Conference Report
Additional Text: JOINT CASE CONFERENCE REPORT - Transaction 6933719 - Approved By: PMSEWELL : 10-17-2018:16:10:11
- 99 10/17/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6933812 - Approved By: NOREVIEW : 10-17-2018:16:13:45
- 100 1/17/2019 - 2490 - Motion ...
Additional Text: MOTION OF PLAINTIFF TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTES OF LIMITATIONS AND REPOSE; REQUEST FOR JUDICIAL NOTICE AND DECLARATIONS OF JOHN SAMBERG, ESQ., AND TRACY CARTER IN SUPPORT THEREOF - Transaction 7072901 - Approved By: CSULEZIC : 01-17-2019:12:43:30
- 101 1/17/2019 - 3870 - Request
Additional Text: PLAINTIFF SOMERSETT OWNERS ASSOCIATION'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTES OF LIMITATIONS AND REPOSE - Transaction 7072901 - Approved By: CSULEZIC : 01-17-2019:12:43:30
- 102 1/17/2019 - 1520 - Declaration
Additional Text: DECLARATION OF TRACY CARTER IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTES OF LIMITATIONS AND REPOSE - Transaction 7072901 - Approved By: CSULEZIC : 01-17-2019:12:43:30
- 103 1/17/2019 - 1520 - Declaration
Additional Text: DECLARATION OF JOHN SAMBERG IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTES OF LIMITATIONS AND REPOSE - Transaction 7072901 - Approved By: CSULEZIC : 01-17-2019:12:43:30
- 104 1/17/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7073347 - Approved By: NOREVIEW : 01-17-2019:12:44:41
- 105 3/4/2019 - 4050 - Stipulation ...
Additional Text: STIPULATION AND ORDER FOR PARTIAL DISMISSAL OF SECOND CLAIM FOR RELIEF, WITHOUT PREJUDICE - Transaction 7145731 - Approved By: CSULEZIC : 03-04-2019:14:33:44
- 106 3/4/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7146342 - Approved By: NOREVIEW : 03-04-2019:14:35:40
- 107 3/7/2019 - 2915 - Ord Dismissal w/o Prejudice
Additional Text: ORDER FOR PARTIAL DISMISSAL OF CERTAIN CLAIMS WITHOUT PREJUDICE FROM THE SECOND CLAIM FOR RELIEF AGAINST DEFENDANT PARSONS BROS ROCKERIES, INC. - Transaction 7154204 - Approved By: NOREVIEW : 03-07-2019:13:37:17
- 108 3/7/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7154209 - Approved By: NOREVIEW : 03-07-2019:13:38:21
- 109 3/14/2019 - 2540 - Notice of Entry of Ord
Additional Text: NOTICE OF ENTRY OF ORDER FOR PARTIAL DISMISSAL OF CERTAIN CLAIMS WITHOUT PREJUDICE, FROM THE SECOND CLAIM FOR RELIEF AGAINST DEFENDANT PARSONS BROS ROCKERIES, INC. WITHOUT PREJUDICE - Transaction 7166333 - Approved By: NOREVIEW : 03-14-2019:12:03:32
- 110 3/14/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7166342 - Approved By: NOREVIEW : 03-14-2019:12:04:43
- 111 3/26/2019 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE - Transaction 7185578 - Approved By: YVILORIA : 03-26-2019:14:19:08
- 112 3/26/2019 - 1520 - Declaration
Additional Text: DECLARATION OF THEODORE CRISSINGER IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT - Transaction 7185622 - Approved By: YVILORIA : 03-26-2019:14:23:10

- 113 3/26/2019 - \$2200 - \$Mtn for Summary Judgment
Additional Text: DEFENDANTS' MOTION FOR SUMMARY JUDGMENT - Transaction 7185622 - Approved By: YVILORIA : 03-26-2019:14:23:10
- 114 3/26/2019 - 2630 - Objection to ...
Additional Text: STANTEC'S OBJECTION TO EVIDENCE OFFERED IN SOA'S MOTION TO STRIKE - Transaction 7185772 - Approved By: CVERA : 03-26-2019:14:24:16
- 115 3/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7185808 - Approved By: NOREVIEW : 03-26-2019:14:20:24
- 116 3/26/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC634100.
- 117 3/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7185833 - Approved By: NOREVIEW : 03-26-2019:14:24:29
- 118 3/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7185838 - Approved By: NOREVIEW : 03-26-2019:14:25:33
- 119 3/26/2019 - \$2200 - \$Mtn for Summary Judgment
Additional Text: DFX: NO EXHIBIT COVER PAGE - SOMERSETT DEVELOPMENT COMPANY'S SEPARATE MOTION FOR SUMMARY JUDGMENT - Transaction 7186554 - Approved By: YVILORIA : 03-27-2019:08:07:13
- 120 3/27/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC634134.
- 121 3/27/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7186750 - Approved By: NOREVIEW : 03-27-2019:08:08:10
- 122 3/27/2019 - 1520 - Declaration
Additional Text: DECLARATION OF CHARLES BURCHAM - Transaction 7187466 - Approved By: CSULEZIC : 03-27-2019:11:32:21
- 123 3/27/2019 - \$2200 - \$Mtn for Summary Judgment
Additional Text: Transaction 7187466 - Approved By: CSULEZIC : 03-27-2019:11:32:21
- 124 3/27/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC634167.
- 125 3/27/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7187670 - Approved By: NOREVIEW : 03-27-2019:11:35:31
- 126 4/24/2019 - \$2200 - \$Mtn for Summary Judgment
Additional Text: PARSONS BROS ROCKERIES, INC. 'S MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION, AND CROSSCLAIMANT, SOMERSETT DEVELOPMENT COMPANY, LTD - Transaction 7236220 - Approved By: YVILORIA : 04-24-2019:14:39:58
- 127 4/24/2019 - 3870 - Request
Additional Text: PARSONS BROS ROCKERIES INC'S REQUEST FOR JUDICIAL NOTICE - Transaction 7236232 - Approved By: YVILORIA : 04-24-2019:14:52:43
- 128 4/24/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC636382.
- 129 4/24/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7236388 - Approved By: NOREVIEW : 04-24-2019:14:41:28

- 130 4/24/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7236437 - Approved By: NOREVIEW : 04-24-2019:14:54:00
- 131 4/26/2019 - 2630 - Objection to ...
Additional Text: OBJECTION BY PLAINTIFF TO THE DECLARATION OF BLAKE SMITH FILED ISO MSJ RELATING TO NRS 40.668 - Transaction 7240498 - Approved By: YVILORIA : 04-26-2019:14:03:32
- 132 4/26/2019 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION OF PLAINTIFF TO DEFENDANT SOMERSETT DEVEL. CO. MSJ RELATING TO NRS 11.202 STATUTE OF RESPOSE - Transaction 7240498 - Approved By: YVILORIA : 04-26-2019:14:03:32
- 133 4/26/2019 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION OF PLAINTIFF TO DEFENDANT SOMERSETT DEVELOPMENT CO. MSJ RELATING TO NRS 40.668 - Transaction 7240498 - Approved By: YVILORIA : 04-26-2019:14:03:32
- 134 4/26/2019 - 3790 - Reply to/in Opposition
Additional Text: REPLY OF PLAINTIFF ISO MOTION TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTE OF LIMITATIONS AND REPOSE - Transaction 7240507 - Approved By: YVILORIA : 04-26-2019:14:14:56
- 135 4/26/2019 - 3880 - Response...
Additional Text: RESPONSE OF PLAINTIFF TO DEF. STANTEC OBJECTION TO EVIDENCE OFFERED IN MOTION TO STRIKE - Transaction 7240507 - Approved By: YVILORIA : 04-26-2019:14:14:56
- 136 4/26/2019 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION OF PLAINTIFF TO DEFENDANTS' JOINT MSJ (OMNIBUS MOTION) - Transaction 7240514 - Approved By: YVILORIA : 04-26-2019:14:16:29
- 137 4/26/2019 - 3870 - Request
Additional Text: REQUEST BY PLAINTIFF FOR JUDICIAL NOTICE - Transaction 7240514 - Approved By: YVILORIA : 04-26-2019:14:16:29
- 138 4/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7240651 - Approved By: NOREVIEW : 04-26-2019:14:04:50
- 139 4/26/2019 - 1520 - Declaration
Additional Text: APPENDIX OF PLAINTIFF'S SUPPORTING EVIDENCE - Transaction 7240696 - Approved By: YVILORIA : 04-26-2019:15:06:27
- 140 4/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7240701 - Approved By: NOREVIEW : 04-26-2019:14:15:59
- 141 4/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7240707 - Approved By: NOREVIEW : 04-26-2019:14:17:28
- 142 4/26/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7240940 - Approved By: NOREVIEW : 04-26-2019:15:08:06
- 143 5/1/2019 - 2650 - Opposition to ...
Additional Text: DFX: EXHIBIT PRESENTED INCORRECTLY - DEFENDANT, Q&D CONSTRUCTION, INC'S OPPOSITION TO DEFENDANT, SOMERSETT DEVELOPMENT COMPANY, LTD'S MOTION FOR SUMMARY JUDGMENT BASED UPON NRS 40.668 - Transaction 7248873 - Approved By: YVILORIA : 05-02-2019:08:22:53
- 144 5/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7248976 - Approved By: NOREVIEW : 05-02-2019:08:24:11
- 145 5/8/2019 - 4030 - Stip & Ord Continue Trial
Additional Text: STIPULATION AND ORDER TO VACATE TRIAL DATE, PRETRIAL CONFERENCE AND CASE DEADLINES - Transaction 7259478 - Approved By: NOREVIEW : 05-08-2019:11:22:26
- 146 5/8/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7259503 - Approved By: NOREVIEW : 05-08-2019:11:24:44

- 147 5/13/2019 - 1650 - Errata...
Additional Text: ERRATA TO APPENDIX, AND SUPPLEMENT TO OPPOSITION OF PLAINTIFF TO DEFENDANTS' JOINT MOTION FOR SUMMARY JUDGMENT (OMNIBUS MOTION) - Transaction 7267124 - Approved By: YVILORIA : 05-13-2019:15:58:23
- 148 5/13/2019 - 4105 - Supplemental ...
Additional Text: SUPPLEMENTAL APPENDIX OF PLAINTIFF'S SUPPORTING EVIDENCE - Transaction 7267124 - Approved By: YVILORIA : 05-13-2019:15:58:23
- 149 5/13/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7267302 - Approved By: NOREVIEW : 05-13-2019:16:01:53
- 150 5/22/2019 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION BY PLAINTIFFS TO DEFENDANT PARSONS BROS MSJ RELATING TO NRS 78.585 - Transaction 7282165 - Approved By: CSULEZIC : 05-22-2019:10:40:33
- 151 5/22/2019 - 1520 - Declaration
Additional Text: DECLARATION OF JOHN SAMBERG IN SUPPORT OF PLAINTIFFS OPP TO DEF PARSONS BROS MSJ - Transaction 7282165 - Approved By: CSULEZIC : 05-22-2019:10:40:33
- 152 5/22/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7282493 - Approved By: NOREVIEW : 05-22-2019:10:43:17
- 153 6/3/2019 - 1650 - Errata...
Additional Text: FURTHER SUPPLEMENTAL ERRATA OF PLAINTIFF TO OPPOSITION TO DEFENDANTS' JOINT MOTION FOR SUMMARY JUDGMENT (OMNIBUS MOTION) - Transaction 7299720 - Approved By: BBLOUGH : 06-03-2019:11:03:11
- 154 6/3/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7299933 - Approved By: NOREVIEW : 06-03-2019:11:05:43
- 155 6/6/2019 - 3790 - Reply to/in Opposition
Additional Text: PARSONS BROS ROCKERIES, INC.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION - Transaction 7307906 - Approved By: YVILORIA : 06-06-2019:14:18:13
- 156 6/6/2019 - 3860 - Request for Submission
Additional Text: REQUEST FOR SUBMISSION OF MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION - Transaction 7307908 - Approved By: YVILORIA : 06-06-2019:14:42:57
DOCUMENT TITLE: MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSET OWNERS ASSOCIATION FILED 4-24-19
PARTY SUBMITTING: STEPHEN CASTRONOVA ESQ
DATE SUBMITTED: 6-6-19
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 157 6/6/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7308042 - Approved By: NOREVIEW : 06-06-2019:14:39:39
- 158 6/6/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7308120 - Approved By: NOREVIEW : 06-06-2019:14:43:49
- 159 6/6/2019 - 2645 - Opposition to Mtn ...
Additional Text: SOMERSETT DEVELOPMENT COMPANY, LTD'S OPPOSITION TO PARSONS BROTHERS ROCKERIES' MOTION FOR SUMMARY JUDGMENT - Transaction 7308203 - Approved By: YVILORIA : 06-06-2019:16:34:26
- 160 6/6/2019 - 2610 - Notice ...
Additional Text: NOTICE OF WITHDRAWAL OF REQUEST FOR SUBMISSION RE MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION - Transaction 7308246 - Approved By: YVILORIA : 06-06-2019:16:35:38
- 161 6/6/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7308702 - Approved By: NOREVIEW : 06-06-2019:16:35:34
- 162 6/6/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7308713 - Approved By: NOREVIEW : 06-06-2019:16:36:41

- 163 6/7/2019 - S200 - Request for Submission Complet
Additional Text: REQUEST FOR SUBMISSION PREMATURELY FILED; PARTIES WILL RESUBMIT ONCE MOTION IS FULLY BRIEFED
- 164 6/7/2019 - 3795 - Reply...
Additional Text: Defendants' Reply in Support of Their Motion for Summary Judgment - Transaction 7309280 - Approved By: SACORDAG : 06-07-2019:09:58:17
- 165 6/7/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7309316 - Approved By: NOREVIEW : 06-07-2019:09:59:18
- 166 6/7/2019 - 3795 - Reply...
Additional Text: REPLY TO SOMERSETT OWNERS ASSOCIATION'S OPPOSITION TO SOMERSETT DEVELOPMENT COMPANY'S SEPARATE MOTION FOR SUMMARY JUDGMENT - Transaction 7309818 - Approved By: YVILORIA : 06-07-2019:13:04:01
- 167 6/7/2019 - 1520 - Declaration
Additional Text: DECLARATION OF CHARLES L BURCHAM IN SUPPORT OF REPLY TO SOMERSETT OWNERS ASSOCIATION'S OPPOSITION TO SOMERSETT DEVELOPMENT COMPANY'S SEPARATE MOTION FOR SUMMARY JUDGMENT - Transaction 7309818 - Approved By: YVILORIA : 06-07-2019:13:04:01
- 168 6/7/2019 - 3795 - Reply...
Additional Text: SOMERSET DEVELOPMENT COMPANY'S COMBINED REPLY IN FAVOR OF ITS MOTION FOR SUMMARY JUDGMENT BASED UPON THE PROVISIONS OF NRS 40.668 - Transaction 7309823 - Approved By: YVILORIA : 06-07-2019:13:11:08
- 169 6/7/2019 - 1520 - Declaration
Additional Text: DECLARATION OF CHARLES L. BURCHAM IN SUPPORT OF SOMERSETT DEVELOPMENT COMPANY'S COMBIEND REPLY IN FAVOR OF ITS MOTION FOR SUMMARY JUDGMENT BASED UPON THE PROVISIONS OF NRS 40.668 - Transaction 7309823 - Approved By: YVILORIA : 06-07-2019:13:11:08
- 170 6/7/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7310048 - Approved By: NOREVIEW : 06-07-2019:13:04:52
- 171 6/7/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7310073 - Approved By: NOREVIEW : 06-07-2019:13:11:54
- 172 6/7/2019 - 2630 - Objection to ...
Additional Text: STANTEC'S OBJECTION TO PLAINTIFF'S EVIDENCE OFFERED IN ITS OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - Transaction 7310610 - Approved By: YVILORIA : 06-07-2019:16:44:32
- 173 6/7/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7311137 - Approved By: NOREVIEW : 06-07-2019:16:45:21
- 174 6/11/2019 - 3790 - Reply to/in Opposition
Additional Text: PARSONS BROS ROCKERIES, INC.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AS AGAINST SOMERSETT DEVELOPMENT COMPANY, LTD - Transaction 7314324 - Approved By: YVILORIA : 06-11-2019:13:01:24
- 175 6/11/2019 - 3860 - Request for Submission
Additional Text: REQUEST FOR SUBMISSION OF MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION AND SOMERSETT DEVELOPMENT COMPANT LTD - Transaction 7314334 - Approved By: YVILORIA : 06-11-2019:13:04:36
DOCUMENT TITLE: MOTION FOR SUMMARY JUDGMENT AS AGAINST PLAINTIFF, SOMERSETT OWNERS ASSOCIATION AND CROSS-CLAIMANT, SOMERSETT DEVELOPMENT COMPANY, LTD FILED 4-24-19
PARTY SUBMITTING: STEPHEN CASTRONOVA ESQ
DATE SUBMITTED: 6-11-19
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 176 6/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7314755 - Approved By: NOREVIEW : 06-11-2019:13:02:24
- 177 6/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7314774 - Approved By: NOREVIEW : 06-11-2019:13:05:49

- 178 6/11/2019 - 3860 - Request for Submission
Additional Text: - Transaction 7314933 - Approved By: CSULEZIC : 06-11-2019:15:33:19
DOCUMENT TITLE: REQUEST FOR SUBMISSION OF SDC'S MOTION FOR SUMMARY JUDGMENT FILED 3/27/19
PARTY SUBMITTING: CHARLES BURCHAM ESQ
DATE SUBMITTED: 6/11/19
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 179 6/11/2019 - 3860 - Request for Submission
Additional Text: Transaction 7314933 - Approved By: CSULEZIC : 06-11-2019:15:33:19
DOCUMENT TITLE: REQUEST FOR SUBMISSION OF SDC'S MOTION FOR SUMMARY JUDGMENT FILED 3/26/19
PARTY SUBMITTING: CHARLES BURCHAM ESQ
DATE SUBMITTED: 6/11/19
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 180 6/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7315472 - Approved By: NOREVIEW : 06-11-2019:15:35:18
- 181 6/12/2019 - 3860 - Request for Submission
Additional Text: REQUEST FOR SUBMISSION (REQUEST FOR HEARING) - Transaction 7317315 - Approved By: YVILORIA : 06-12-2019:13:58:31
DOCUMENT TITLE: PLAINTIFFS' MOTION TO STRIKE CERTAIN AFFIRMATIVE DEFENSES RELATING TO STATUTES OF LIMITATIONS AND REPOSE FILED 1-17-19
PARTY SUBMITTING: JOHN SAMBERG ESQ
DATE SUBMITTED: 6-12-19
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 182 6/12/2019 - 3860 - Request for Submission
Additional Text: - Transaction 7317392 - Approved By: CSULEZIC : 06-12-2019:14:10:41
DOCUMENT TITLE: MOTION FOR SUMMARY JUDGMENT FILED 3/26/19
PARTY SUBMITTING: THEODORE CHRISSINGER ESQ
DATE SUBMITTED: 6/12/19
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 183 6/12/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7317421 - Approved By: NOREVIEW : 06-12-2019:13:59:50
- 184 6/12/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7317498 - Approved By: NOREVIEW : 06-12-2019:14:11:56
- 185 7/2/2019 - 3347 - Ord to Set
Additional Text: ORDER TO SET HEARING ON MOTIONS - Transaction 7351429 - Approved By: NOREVIEW : 07-02-2019:10:19:36
- 186 7/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7351434 - Approved By: NOREVIEW : 07-02-2019:10:20:32
- 187 7/2/2019 - 3370 - Order ...
Additional Text: ORDER REGARDING MOTION FOR SUMMARY JUDGMENT - Transaction 7351440 - Approved By: NOREVIEW : 07-02-2019:10:21:48
- 188 7/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7351446 - Approved By: NOREVIEW : 07-02-2019:10:22:57
- 189 7/2/2019 - 3370 - Order ...
Additional Text: ORDER REGARDING PARSONS BROS MOTION FOR SUMMARY JUDGMENT - Transaction 7351464 - Approved By: NOREVIEW : 07-02-2019:10:25:54

- 190 7/2/2019 - S200 - Request for Submission Complet
Additional Text: ORDER FILED JULY 2, 2019
- 191 7/2/2019 - S200 - Request for Submission Complet
Additional Text: ORDER FILED JULY 2, 2019
- 192 7/2/2019 - S200 - Request for Submission Complet
Additional Text: ORDER FILED JULY 2, 2019
- 193 7/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7351469 - Approved By: NOREVIEW : 07-02-2019:10:26:52
- 194 7/2/2019 - S200 - Request for Submission Complet
Additional Text: ORDER FILED JULY 2, 2019
- 195 7/2/2019 - S200 - Request for Submission Complet
Additional Text: ORDER FILED JULY 2, 2019
- 196 7/2/2019 - 1250E - Application for Setting eFile
Additional Text: FOR HEARING ON SOMERSETT MOTION FOR S.J.; MOTION TO STRIKE; SOMERSETT DEV. MOTION FOR S.J. SET FOR JULY 15, 2019, AT 1:30 P.M. - Transaction 7352979 - Approved By: NOREVIEW : 07-02-2019:15:22:11
- 197 7/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7352981 - Approved By: NOREVIEW : 07-02-2019:15:23:14
- 198 7/15/2019 - MIN - ***Minutes
Additional Text: 7/15/19 - MOTIONS HEARING - Transaction 7374208 - Approved By: NOREVIEW : 07-15-2019:17:01:59
- 199 7/15/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7374214 - Approved By: NOREVIEW : 07-15-2019:17:03:05
- 200 7/30/2019 - 4185 - Transcript
Additional Text: Hearing on Motions - Transaction 7400767 - Approved By: NOREVIEW : 07-30-2019:09:20:06
- 201 7/30/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7400773 - Approved By: NOREVIEW : 07-30-2019:09:21:19
- 202 10/2/2019 - 3060 - Ord Granting Mtn ...
Additional Text: ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - Transaction 7516904 - Approved By: NOREVIEW : 10-02-2019:15:27:15
- 203 10/2/2019 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 204 10/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7516910 - Approved By: NOREVIEW : 10-02-2019:15:28:29
- 205 10/2/2019 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 7517271 - Approved By: NOREVIEW : 10-02-2019:16:45:27
- 206 10/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7517280 - Approved By: NOREVIEW : 10-02-2019:16:46:40
- 207 10/3/2019 - 2842 - Ord Denying Motion
Additional Text: ORDER DENYING MOTION TO STRIKE AS MOOT - Transaction 7517620 - Approved By: NOREVIEW : 10-03-2019:08:47:42

- 208 10/3/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7517621 - Approved By: NOREVIEW : 10-03-2019:08:48:36
- 209 10/3/2019 - 2842 - Ord Denying Motion
Additional Text: ORDER DENYING SEPARATE MOTION FOR SUMMARY JUDGMENT AS MOOT - Transaction 7517628 - Approved By: NOREVIEW : 10-03-2019:08:50:29
- 210 10/3/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7517633 - Approved By: NOREVIEW : 10-03-2019:08:51:30
- 211 10/3/2019 - 1950 - Memorandum of Costs
Additional Text: PARSONS BROS ROCKERIES, INC'S MEMORANDUM OF COSTS - Transaction 7518538 - Approved By: NOREVIEW : 10-03-2019:11:31:09
- 212 10/3/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7518541 - Approved By: NOREVIEW : 10-03-2019:11:32:24
- 213 10/4/2019 - 1950 - Memorandum of Costs
Additional Text: Transaction 7520882 - Approved By: NOREVIEW : 10-04-2019:10:15:33
- 214 10/4/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7520889 - Approved By: NOREVIEW : 10-04-2019:10:18:48
- 215 10/4/2019 - 1950 - Memorandum of Costs
Additional Text: Transaction 7521436 - Approved By: NOREVIEW : 10-04-2019:12:49:18
- 216 10/4/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7521437 - Approved By: NOREVIEW : 10-04-2019:12:50:18
- 217 10/4/2019 - 1950 - Memorandum of Costs
Additional Text: DFX: EXHIBITS PRESENTED INCORRECTLY
Q & D Construction, Inc.'s Memorandum of Costs - Transaction 7522567 - Approved By: NOREVIEW : 10-04-2019:16:16:30
- 218 10/4/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7522572 - Approved By: NOREVIEW : 10-04-2019:16:17:31
- 219 10/8/2019 - 1650 - Errata...
Additional Text: Notice of Errata Re. Q & D Construction, Inc.'s Memorandum of Costs - Transaction 7527610 - Approved By: CSULEZIC : 10-08-2019:16:03:21
- 220 10/8/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7527626 - Approved By: NOREVIEW : 10-08-2019:16:04:26
- 221 10/11/2019 - 1520 - Declaration
Additional Text: Declaration of Michael Kimmel - Transaction 7534174 - Approved By: NOREVIEW : 10-11-2019:14:44:39
- 222 10/11/2019 - 1520 - Declaration
Additional Text: Declaration of Theodore Chrissinger - Transaction 7534174 - Approved By: NOREVIEW : 10-11-2019:14:44:39
- 223 10/11/2019 - 2010 - Mtn for Attorney's Fee
Additional Text: Transaction 7534174 - Approved By: NOREVIEW : 10-11-2019:14:44:39
- 224 10/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7534177 - Approved By: NOREVIEW : 10-11-2019:14:45:39
- 225 10/11/2019 - 1520 - Declaration
Additional Text: Transaction 7534228 - Approved By: NOREVIEW : 10-11-2019:15:11:12

- 226 10/11/2019 - 2010 - Mtn for Attorney's Fee
Additional Text: Transaction 7534228 - Approved By: NOREVIEW : 10-11-2019:15:11:12
- 227 10/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7534253 - Approved By: NOREVIEW : 10-11-2019:15:13:43
- 228 10/16/2019 - 2010 - Mtn for Attorney's Fee
Additional Text: Transaction 7540801 - Approved By: NOREVIEW : 10-16-2019:11:32:09
- 229 10/16/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7540837 - Approved By: NOREVIEW : 10-16-2019:11:37:20
- 230 10/22/2019 - 2010 - Mtn for Attorney's Fee
Additional Text: Defendant, Q & D Construction, Inc.'s Motion for Attorney's Fees - Transaction 7552422 - Approved By: NOREVIEW : 10-22-2019:16:52:11
- 231 10/22/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7552433 - Approved By: NOREVIEW : 10-22-2019:16:53:23
- 232 10/29/2019 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: NOTICE OF APPEAL - Transaction 7562225 - Approved By: YVILORIA : 10-29-2019:15:18:14
- 233 10/29/2019 - 1310E - Case Appeal Statement
Additional Text: CASE APPEAL STATEMENT - Transaction 7562225 - Approved By: YVILORIA : 10-29-2019:15:18:14
- 234 10/29/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$34.00 was made on receipt DCDC648589.
- 235 10/29/2019 - 1310 - Case Appeal Statement
Additional Text: CASE APPEAL STATEMENT - Transaction 7562270 - Approved By: YVILORIA : 10-29-2019:15:25:11
- 236 10/29/2019 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: NOTICE OF APPEAL - Transaction 7562270 - Approved By: YVILORIA : 10-29-2019:15:25:11
- 237 10/29/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7562272 - Approved By: NOREVIEW : 10-29-2019:15:20:31
- 238 10/29/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$34.00 was made on receipt DCDC648591.
- 239 10/29/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7562290 - Approved By: NOREVIEW : 10-29-2019:15:26:12
- 240 10/30/2019 - SAB - **Supreme Court Appeal Bond
Additional Text: Bond ID: SAB-19-00075; Total Bond Amount: \$500.00.

Bond Code, SAB, Receipted for: SITE DEFINED TRUST DEPOSIT, on 30-OCT-2019 in the amount of \$500.00 on case ID CV17-02427.
- 241 10/30/2019 - SAB - **Supreme Court Appeal Bond
Additional Text: Bond ID: SAB-19-00076; Total Bond Amount: \$500.00.

Bond Code, SAB, Receipted for: SITE DEFINED TRUST DEPOSIT, on 30-OCT-2019 in the amount of \$500.00 on case ID CV17-02427.
- 242 10/30/2019 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 7564652 - Approved By: NOREVIEW : 10-30-2019:15:21:35

243 10/30/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7564660 - Approved By: NOREVIEW : 10-30-2019:15:22:45

244 10/30/2019 - 1350 - Certificate of Clerk

Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL #2 - Transaction 7564720 - Approved By:
NOREVIEW : 10-30-2019:15:34:09

245 10/30/2019 - NEF - Proof of Electronic Service

Additional Text: Transaction 7564724 - Approved By: NOREVIEW : 10-30-2019:15:35:14

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

SOMERSETT OWNERS ASSOCIATION,
a domestic non-profit corporation,

Plaintiff,

vs.

Case No. CV17-02427

Dept. No. 10

SOMERSETT DEVELOPMENT CO., LTD.,
a Nevada limited liability company;
SOMERSETT, LLC, a dissolved Nevada
limited liability company; SOMERSETT
DEVELOPMENT CORPORATION, a
dissolved Nevada corporation; Q&D
CONSTRUCTION, INC., PARSONS
BROTHERS ROCKERIES, INC., a
Washington corporation; PARSONS ROCKS!,
LLC, a Nevada limited liability company, and
DOES 5-50 inclusive,

Defendants,

AND RELATED CROSS-ACTIONS.

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Presently before the Court is DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
("the Motion") filed by Defendants STANTEC CONSULTING SERVICES INC.; SOMERSETT
DEVELOPMENT CO., LTD; SOMERSETT, LLC; SOMERSETT DEVELOPMENT
CORPORATION; Q&D CONSTRUCTION, INC; and PARSONS BROTHERS ROCKERIES,
INC. (collectively "the Defendants") on March 26, 2019. Plaintiff SOMERSETT OWNERS

1 ASSOCIATION (“the Plaintiff”) filed the OPPOSITION OF PLAINTIFF TO DEFENDANTS’
2 JOINT MOTION FOR SUMMARY JUDGMENT (OMNIBUS MOTION) (“the Opposition”) on
3 April 26, 2019. The Plaintiff contemporaneously filed the REQUEST BY PLAINTIFF FOR
4 JUDICIAL NOTICE (“the RJN”).¹ The Defendants filed DEFENDANTS’ REPLY IN SUPPORT
5 OF THEIR MOTION FOR SUMMARY JUDGMENT (“the Reply”) on June 7, 2019. The Court
6 held a hearing on July 15, 2019, and took the matter under advisement.
7

8 The Plaintiff filed the FIRST AMENDED COMPLAINT FOR DAMAGES
9 (CORRECTED) (“the FAC”) on May 3, 2018.² The Plaintiff is a homeowners association of a
10 common-interest community. The FAC is a construction defect matter which contains the
11 following causes of action: 1) Negligence and Negligence Per Se; 2) Breach of Express and Implied
12 Warranties Pursuant to NRS 116.4113 and NRS 11.4114³ and Common Law; 3) Negligent
13 Misrepresentation and/or Failure to Disclose; 4) Declaratory Relief; and 5) Breach of NRS
14 116.1113 and the Implied Covenant of Good Faith. The Complaint 8-17. The Plaintiff contends
15 the Defendants negligently designed and constructed rockery walls within the Plaintiff’s common-
16 interest community and breached the express and implied warranties associated with the
17 construction. The Complaint 11-13. The Plaintiff also alleges the Defendants negligently
18 misrepresented and/or failed to disclose known latent defects which later caused the rockery walls
19 to fail and also breached the implied covenant of good faith and fair dealing. The Complaint 14-16.
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25 ¹ NRS 47.130 and 47.1150 govern judicial notice. The effect of judicial notice is to establish the fact which is noticed to
26 the court. *Lemel v. Smith*, 64 Nev. 545, 566, 187 P.2d 169, 179 (1947). While the Plaintiff has asked the Court to take
27 judicial notice of twelve different items, the Court does not believe judicial notice of these items is necessary or
appropriate for the Motion. The Court will consider the items in the RJN as if they had been submitted as exhibits to the
Opposition and will give them appropriate weight, if any.

28 ² The requisite Chapter 40 notice was served on December 29, 2017. *See* the Motion 6:10-14.

³ The Court presumes the Plaintiff intended to write “116.4144.”

1 The Defendants contend they are entitled to summary judgment on all of the Plaintiff's
2 claims because the statute of repose has expired. The Motion 7:10-21. The Defendants contend
3 more than six years have elapsed since the rockery walls were substantially completed, and statutes
4 of repose are not subject to equitable or statutory tolling. The Motion 8:8-17; 9:3-27; 10:6-21;
5 11:1-22. The Plaintiff responds the Motion should be denied because the warranty claims under
6 NRS Chapter 116 did not begin to run until control of the Plaintiff's board was transferred from
7 Defendant SOMERSETT DEVELOPMENT CO., LTD. ("SDC") to the Plaintiff on January 8,
8 2013. The Opposition 2:6-14; 6:7-15. The Plaintiff also contends there is a genuine issues of
9 material fact regarding the date of substantial completion for the rockery walls because evaluations
10 from 2017 and 2018 revealed the rockery walls were unfit for their intended use. The Opposition
11 2:15-20; 9:20-23; 10:16-20; 11:14-17; 17:4-8. The Plaintiff further contends the statute of repose is
12 subject to statutory and equitable tolling and is only applicable to the Negligence and Negligence
13 Per Se claims. The Opposition 13:26-28; 20:17-18; 22:7-11; 23:3-10; 24:4-13. The Defendant
14 responds by arguing that the Plaintiff conflates statutes of limitation and statutes of repose and that
15 tolling only applies to the former. The Reply 4:2-21; 8:16-20; 9:8-12; 11:10-18. The Defendant
16 also argues the common law definition of substantial completion does not require an improvement
17 to be free from defects, and substantial completion cannot occur after actual completion. The
18 Reply 5:6-16; 7:11-23; 8:13-15.

19 NRCP 56(a) allows a party to petition the court for summary judgment on a claim or
20 defense. *Shadow Wood Homeowners Ass'n v. New York Cmty. Bancorp, Inc.*, 132 Nev. 49, 55,
21 366 P.3d 1105, 1109 (2016). Summary judgment is appropriate where the moving party
22 demonstrates no genuine issue of material fact, thus entitling the party to judgment as a matter of
23 law. NRCP 56(a). A material fact is one that could impact the outcome of the case. *Wood v.*

1 *Safeway, Inc.*, 121 Nev. 724, 730, 121 P.3d 1026, 1030 (2005) (quoting *Anderson v. Liberty*
2 *Lobby*, 477 U.S. 242, 247-48, 106 S. Ct. 2505, 2509-10 (1986)). When the party moving for
3 summary judgment does not bear the burden of persuasion at trial, the movant may satisfy the
4 burden of production for summary judgment by “submitting evidence that negates an essential
5 element of the nonmoving party’s claim” or “pointing out that there is an absence of evidence to
6 support the nonmoving party’s case.” *Cuzze v. Univ. and Cmty. Coll. Sys. of Nev.*, 123 Nev. 598,
7 602-03, 172 P.3d 131, 134 (2007).

9 When considering a motion for summary judgment, the district court must view the
10 evidence and any reasonable inferences drawn from it in the light most favorable to the
11 nonmoving party. *Wood*, 121 Nev. at 729, 121 P.3d at 1029. However, the nonmoving party must
12 set forth “specific facts demonstrating the existence of a genuine factual issue.” *Pegasus v. Reno*
13 *Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (explaining non-moving party may
14 not stand on “general allegations and conclusions”). Such facts must be predicated on admissible
15 evidence, and the non-moving party is not permitted “to build a case on the gossamer threads of
16 whimsy, speculation and conjecture.” *Id.* “The substantive law controls which factual disputes
17 are material and will preclude summary judgment; other factual disputes are irrelevant.” *Wood*,
18 121 Nev. at 731, 121 P.3d at 1031.

21 NRS 11.202 enumerates the statute of repose for claims related to construction defects and
22 provides:
23

- 24 1. No action may be commenced against the owner, occupier or any person
25 performing or furnishing the design, planning, supervision or observation of
26 construction, or the construction of an improvement to real property more than 6
27 years after the substantial completion of such an improvement, for the recovery
28 of damages for:

- a. Any deficiency in the design, planning, supervision or observation of
construction or the construction of such an improvement;

- b. Injury to real or personal property caused by any such deficiency; or
- c. Injury to or the wrongful death of a person caused by any such deficiency.

2. The provisions of this section do not apply:

- a. To a claim for indemnity or contribution.
- b. In an action brought against:
 - 1) The owner or keeper of any hotel, inn, motel, motor court, boardinghouse or lodging house in this State on account of his or her liability as an innkeeper.
 - 2) Any person on account of a defect in a product.

The date of substantial completion is the latest of the following dates: the date of the final building inspection, the date the notice of completion is issued, or the date a certificate of occupancy is issued. NRS 11.2055. *See also Dykema v. Del Webb Cmty., Inc.*, 132 Nev. 823, 827, 385 P.3d 977, 980 (2016) (holding issue date for notice of completion is date of recording). If none of the above three events occurred, the date of substantial completion is determined by the rules of the common law. *Id.* ⁴ “[S]ubstantial completion’ implies that the parties have been given the object of their contract and that any omissions or deviations can be remedied.” 22 AM. JUR. 2D DAMAGES § 83 (explaining contract has been substantially performed).

Statutes of repose are distinct from statutes of limitation. As the *Rhodes* Court explained:

The distinction between these two terms [statute of limitations and statute of repose] is often overlooked. A statute of limitations prohibits a suit after a period of time that follows the accrual of the cause of action . . . Moreover, a statute of limitations can be equitably tolled . . . **In contrast**, a statute of repose bars a cause of action after a specified period of time **regardless of when the cause of action was discovered or a recoverable injury occurred.**

⁴ The parties do not dispute that no final building inspection occurred and no notice of completion was issued. Additionally, the parties do not argue the statute is ambiguous.

1 *FDIC v. Rhodes*, 130 Nev. 893, 899, 336 P.3d 961, 965 (2014) (emphasis added). *See also*
2 *Davenport v. Comstock Hills-Reno*, 118 Nev. 389, 390, 46 P.3d 62, 63 (2002) (explaining statutes
3 of repose “absolutely bar any action stemming from injuries caused by a negligently designed or
4 constructed improvement to real property after a certain period of time has passed.”). In addition to
5 and separate from the elements of a cause of action, a plaintiff “must also prove that the cause of
6 action was brought within the time frame set forth by the statute of repose.” *G&H Assocs. v. Ernest*
7 *W. Hahn, Inc.*, 113 Nev. 265, 271, 934 P.2d 299, 233 (1997) (internal citations omitted).

9 The Court will grant the Motion because there is no genuine dispute of material fact the
10 Plaintiff failed to file the FAC within the six-year statute of repose. Even when viewing the
11 evidence in the light most favorable to the Plaintiff, the Plaintiff has not identified any admissible
12 evidence proving the FAC was filed within the six-year statute of repose. Because the Plaintiff
13 bears the burden of persuasion on the statute of repose issue, the lack of affirmative evidence is
14 fatal. First, the statute of repose applies to all of the Plaintiff’s claims, not only the Negligence and
15 Negligence Per Se claims. All of the Plaintiff’s claims are premised on the design and construction
16 of the walls. The plain language of NRS 11.202(1) clearly states that “no action...for the recovery
17 of damages” for construction deficiency can be commenced more than six years after the
18 substantial completion of the improvement. The statute does not differentiate between types of
19 actions, and the only exemptions appear in NRS 11.202(2). Because the Plaintiff’s claims do not
20 fall within the applicable exemptions, the statute of repose applies. Second, the Plaintiff’s
21 argument that evaluations from 2017 to 2018 confirm the lack of substantial completion is
22 unpersuasive. The Plaintiff essentially argues the discovery of any defects precludes substantial
23 completion; however, this argument contradicts the purpose of and policy determination embodied
24 by the statute of repose. The statute of repose is intended to provide parties with finality and
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1 establish a time period after which they cannot be sued for construction deficiencies. *See*
2 *Davenport*, 118 Nev. at 393, 46 P.3d at 65 (“[T]he legislature has opted to provide them [parties
3 involved in creating improvement] with a measure of economic certainty by closing the door to
4 liability . . .”). If the Court were to accept the Plaintiff’s analysis, the statute of repose would
5 potentially last decades for appurtenances and other common interest elements and developments,
6 such as roads, sidewalks, walls, parks, trails and developed open spaces constructed for the benefit
7 of all members of a community. The statute of repose is an absolute time bar based on substantial
8 completion and is unaffected by the later discovery of damage or injury. *See G&H Assocs.*, 113
9 Nev. at 271, 934 P.2d at 233. Accepting the Plaintiff’s argument would eviscerate the purpose of
10 the statute of repose, render the substantial completion standard meaningless and expressly
11 contradict the policy determination made by the Legislature.
12

13
14 Finally, statutes of repose are not subject to equitable or statutory tolling, a concept which
15 has been explained by the Nevada Supreme Court. *See Rhodes*, 130 Nev. at 899, 336 P.3d at 965
16 (explaining statutes of limitations can be tolled and statutes of repose cannot). *See also State Dep’t*
17 *of Taxation v. Masco Builder Cabinet Grp.*, 127 Nev. 730, 738, 265 P.3d 666, 671 (2011)
18 (explaining operation of equitable tolling for statute of limitations). The Plaintiff’s reliance on out-
19 of-state case law is unpersuasive in light of mandatory authority undercutting its argument. *See*
20 *Rhodes*, 130 Nev. at 899, 336 P.3d at 965 (explaining purpose of statute of repose is to “give a
21 defendant peace of mind by barring delayed litigation, so as to prevent unfair surprises that result
22 from the revival of claims that have remained dormant for a period during which the evidence
23 vanished and memories faded.”). For all of these reasons, the Plaintiff has failed to carry its burden
24 to establish its claims were filed within the six-year statute of repose.
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1 **IT IS ORDERED** DEFENDANTS' MOTION FOR SUMMARY JUDGMENT is hereby
2 **GRANTED.**

3 **DATED** this 2 day of October, 2019.
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7 ELLIOTT A. SATTLER
8 District Judge
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1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
3 of the State of Nevada, County of Washoe; that on this _____ day of October, 2019, I deposited in
4 the County mailing system for postage and mailing with the United States Postal Service in Reno,
5 Nevada, a true copy of the attached document addressed to:
6

7
8 **CERTIFICATE OF ELECTRONIC SERVICE**

9 I hereby certify that I am an employee of the Second Judicial District Court of the State of
10 Nevada, in and for the County of Washoe; that on the 2nd day of October, 2019, I electronically
11 filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of
12 electronic filing to the following:
13

14 CHARLES BURCHAM, ESQ.

15 NATASHA LANDRUM, ESQ.

16 DIRK GASPAR, ESQ.

17 DAVID LEE, ESQ.

18 STEPHEN CASTRONOVA, ESQ.

19 THEODORE E. CHRISSINGER, ESQ.

20 MICHAEL S. KIMMEL, ESQ.

21 STEPHEN G. CASTRONOVA, ESQ.

22 JOHN SAMBERG, ESQ.

23 DON SPRINGMEYER, ESQ.
24
25
26
27
28


Sheila Mansfield
Judicial Assistant

Code: 2540

Charles L. Burcham, Esq., Nevada Bar No. 2673
Wade Carner, Esq., Nevada Bar No. 11530
Thorndal, Armstrong, Delk, Balkenbush & Eisinger
6590 S. McCarran, Suite B
Reno, Nevada 89509
Tel: (775) 786-2882

Attorneys for Defendants
SOMERSETT DEVELOPMENT COMPANY, LTD;
SOMERSETT, LLC and SOMERSETT DEVELOPMENT CORPORATION

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

SOMERSETT OWNERS ASSOCIATION, a
Domestic Non-Profit Corporation,

Plaintiff,

vs.

Case No. CV17-02427

Dept. No. 15

SOMERSETT DEVELOPMENT
COMPANY, LTD, a Nevada Limited
Liability Company; SOMERSETT, LLC a
dissolved Nevada Limited Liability Company;
SOMERSETT DEVELOPMENT
CORPORATION, a dissolved Nevada
Corporation; Q & D Construction, Inc., a
Nevada Corporation, PARSONS BROS
ROCKERIES, INC., a Washington
Corporation; PARSONS ROCKS!, LLC., a
Nevada Limited Liability Company, and
DOES 5 through 50, inclusive,

Defendants.

SOMERSETT DEVELOPMENT CO., LTD.,

Third-Party Plaintiff,

vs.

STANTEC CONSULTING, INC., an Arizona
Corporation; and DOES 1-50 inclusive,

Third-Party Defendant.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on the 2nd day of October, 2019, the above-entitled Court
entered its Order in the above-entitled matter.

1 PLEASE TAKE FURTHER NOTICE that on the 2nd day of October, 2019, said Order
2 was duly filed in the office of the Clerk of the above-entitled Court and that attached hereto is a
3 true and correct copy of said Order.

4 **AFFIRMATION**

5 **Pursuant to NRS 239B.030 and 603A.040**

6 The undersigned hereby affirms that this document does not contain the personal
7 information of any person.

8 DATED this 2nd day of October, 2019.

9 THORNDAL, ARMSTRONG,
10 DELK, BALKENBUSH & EISINGER

11 By: /s/ Charles Burcham
12 CHARLES L. BURCHAM, ESQ.
13 Nevada Bar No. 2673
14 WADE CARNER, ESQ.
15 Nevada Bar No. 11530
16 6590 S. McCarran Blvd., Suite B
17 Reno, Nevada 89509
18 Attorneys for Defendants
19 SOMERSETT DEVELOPMENT
20 COMPANY, LTD, SOMERSETT, LLC,
21 and SOMERSETT DEVELOPMENT
22 CORPORATION
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk,
3 Balkenbush & Eisinger, and that on this date I caused the foregoing NOTICE OF ENTRY OF
4 ORDER to be served on all parties to this action by:

5 _____ placing an original or true copy thereof in a sealed, postage prepaid, envelope in the
6 United States mail at Reno, Nevada.

7 X Second Judicial District Court Eflex ECF (Electronic Case Filing)

8 _____ personal delivery

9 _____ facsimile (fax)

10 _____ Federal Express/UPS or other overnight delivery

11 fully addressed as follows:

12 **Don Springmeyer, Esq.**
13 **John Samberg, Esq.**
14 **Royi Moas, Esq.**
15 **Wolf, Rifkin, Shapiro, Schulman &**
16 **Rabkin, LLP**
17 **5594 B Longley Lane**
18 **Reno, NV 89511**
19 **Attorneys for Plaintiff**

Natasha Landrum, Esq.
Dirk W. Gaspar, Esq.
Lee, Hernandez, Landrum & Garofalo
7575 Vegas Dr., Ste 150
Las Vegas, NV 89128
Attorneys for Defendant
Q & D Construction

17 **Steve Castronova, Esq.**
18 **Castronova Law Offices, P.C.**
19 **605 Forest Street**
20 **Reno, NV 89509**
21 **Attorney for Defendant**
22 **Parsons Bros Rockeries**

Theodore Chrissinger, Esq.
Hoy, Chrissinger, Kimmel & Vallas
50 W. Liberty Street, Suite 840
Reno, NV 89501
Attorney for Stantec Consulting

22 DATED this 2nd day of October, 2019.

24 /s/ Laura Bautista
25 An employee of Thorndal, Armstrong,
26 Delk, Balkenbush & Eisinger
27
28

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

SOMERSETT OWNERS ASSOCIATION,
a domestic non-profit corporation,

Plaintiff,

vs.

Case No. CV17-02427

Dept. No. 10

SOMERSETT DEVELOPMENT CO., LTD.,
a Nevada limited liability company;
SOMERSETT, LLC, a dissolved Nevada
limited liability company; SOMERSETT
DEVELOPMENT CORPORATION, a
dissolved Nevada corporation; Q&D
CONSTRUCTION, INC., PARSONS
BROTHERS ROCKERIES, INC., a
Washington corporation; PARSONS ROCKS!,
LLC, a Nevada limited liability company, and
DOES 5-50 inclusive,

Defendants,

AND RELATED CROSS-ACTIONS.

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Presently before the Court is DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
("the Motion") filed by Defendants STANTEC CONSULTING SERVICES INC.; SOMERSETT
DEVELOPMENT CO., LTD; SOMERSETT, LLC; SOMERSETT DEVELOPMENT
CORPORATION; Q&D CONSTRUCTION, INC; and PARSONS BROTHERS ROCKERIES,
INC. (collectively "the Defendants") on March 26, 2019. Plaintiff SOMERSETT OWNERS

1 ASSOCIATION ("the Plaintiff") filed the OPPOSITION OF PLAINTIFF TO DEFENDANTS'
2 JOINT MOTION FOR SUMMARY JUDGMENT (OMNIBUS MOTION) ("the Opposition") on
3 April 26, 2019. The Plaintiff contemporaneously filed the REQUEST BY PLAINTIFF FOR
4 JUDICIAL NOTICE ("the RJN").¹ The Defendants filed DEFENDANTS' REPLY IN SUPPORT
5 OF THEIR MOTION FOR SUMMARY JUDGMENT ("the Reply") on June 7, 2019. The Court
6 held a hearing on July 15, 2019, and took the matter under advisement.
7

8 The Plaintiff filed the FIRST AMENDED COMPLAINT FOR DAMAGES
9 (CORRECTED) ("the FAC") on May 3, 2018.² The Plaintiff is a homeowners association of a
10 common-interest community. The FAC is a construction defect matter which contains the
11 following causes of action: 1) Negligence and Negligence Per Se; 2) Breach of Express and Implied
12 Warranties Pursuant to NRS 116.4113 and NRS 11.4114³ and Common Law; 3) Negligent
13 Misrepresentation and/or Failure to Disclose; 4) Declaratory Relief; and 5) Breach of NRS
14 116.1113 and the Implied Covenant of Good Faith. The Complaint 8-17. The Plaintiff contends
15 the Defendants negligently designed and constructed rockery walls within the Plaintiff's common-
16 interest community and breached the express and implied warranties associated with the
17 construction. The Complaint 11-13. The Plaintiff also alleges the Defendants negligently
18 misrepresented and/or failed to disclose known latent defects which later caused the rockery walls
19 to fail and also breached the implied covenant of good faith and fair dealing. The Complaint 14-16.
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25 ¹ NRS 47.130 and 47.1150 govern judicial notice. The effect of judicial notice is to establish the fact which is noticed to
26 the court. *Lemel v. Smith*, 64 Nev. 545, 566, 187 P.2d 169, 179 (1947). While the Plaintiff has asked the Court to take
27 judicial notice of twelve different items, the Court does not believe judicial notice of these items is necessary or
appropriate for the Motion. The Court will consider the items in the RJN as if they had been submitted as exhibits to the
Opposition and will give them appropriate weight, if any.

28 ² The requisite Chapter 40 notice was served on December 29, 2017. *See* the Motion 6:10-14.

³ The Court presumes the Plaintiff intended to write "116.4144."

1 The Defendants contend they are entitled to summary judgment on all of the Plaintiff's
2 claims because the statute of repose has expired. The Motion 7:10-21. The Defendants contend
3 more than six years have elapsed since the rockery walls were substantially completed, and statutes
4 of repose are not subject to equitable or statutory tolling. The Motion 8:8-17; 9:3-27; 10:6-21;
5 11:1-22. The Plaintiff responds the Motion should be denied because the warranty claims under
6 NRS Chapter 116 did not begin to run until control of the Plaintiff's board was transferred from
7 Defendant SOMERSETT DEVELOPMENT CO., LTD. ("SDC") to the Plaintiff on January 8,
8 2013. The Opposition 2:6-14; 6:7-15. The Plaintiff also contends there is a genuine issues of
9 material fact regarding the date of substantial completion for the rockery walls because evaluations
10 from 2017 and 2018 revealed the rockery walls were unfit for their intended use. The Opposition
11 2:15-20; 9:20-23; 10:16-20; 11:14-17; 17:4-8. The Plaintiff further contends the statute of repose is
12 subject to statutory and equitable tolling and is only applicable to the Negligence and Negligence
13 Per Se claims. The Opposition 13:26-28; 20:17-18; 22:7-11; 23:3-10; 24:4-13. The Defendant
14 responds by arguing that the Plaintiff conflates statutes of limitation and statutes of repose and that
15 tolling only applies to the former. The Reply 4:2-21; 8:16-20; 9:8-12; 11:10-18. The Defendant
16 also argues the common law definition of substantial completion does not require an improvement
17 to be free from defects, and substantial completion cannot occur after actual completion. The
18 Reply 5:6-16; 7:11-23; 8:13-15.

19 NRCP 56(a) allows a party to petition the court for summary judgment on a claim or
20 defense. *Shadow Wood Homeowners Ass'n v. New York Cmty. Bancorp, Inc.*, 132 Nev. 49, 55,
21 366 P.3d 1105, 1109 (2016). Summary judgment is appropriate where the moving party
22 demonstrates no genuine issue of material fact, thus entitling the party to judgment as a matter of
23 law. NRCP 56(a). A material fact is one that could impact the outcome of the case. *Wood v.*

1 *Safeway, Inc.*, 121 Nev. 724, 730, 121 P.3d 1026, 1030 (2005) (quoting *Anderson v. Liberty*
2 *Lobby*, 477 U.S. 242, 247-48, 106 S. Ct. 2505, 2509-10 (1986)). When the party moving for
3 summary judgment does not bear the burden of persuasion at trial, the movant may satisfy the
4 burden of production for summary judgment by “submitting evidence that negates an essential
5 element of the nonmoving party’s claim” or “pointing out that there is an absence of evidence to
6 support the nonmoving party’s case.” *Cuzze v. Univ. and Cmty. Coll. Sys. of Nev.*, 123 Nev. 598,
7 602-03, 172 P.3d 131, 134 (2007).

9 When considering a motion for summary judgment, the district court must view the
10 evidence and any reasonable inferences drawn from it in the light most favorable to the
11 nonmoving party. *Wood*, 121 Nev. at 729, 121 P.3d at 1029. However, the nonmoving party must
12 set forth “specific facts demonstrating the existence of a genuine factual issue.” *Pegasus v. Reno*
13 *Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (explaining non-moving party may
14 not stand on “general allegations and conclusions”). Such facts must be predicated on admissible
15 evidence, and the non-moving party is not permitted “to build a case on the gossamer threads of
16 whimsy, speculation and conjecture.” *Id.* “The substantive law controls which factual disputes
17 are material and will preclude summary judgment; other factual disputes are irrelevant.” *Wood*,
18 121 Nev. at 731, 121 P.3d at 1031.

21 NRS 11.202 enumerates the statute of repose for claims related to construction defects and
22 provides:
23

- 24 1. No action may be commenced against the owner, occupier or any person
25 performing or furnishing the design, planning, supervision or observation of
26 construction, or the construction of an improvement to real property more than 6
27 years after the substantial completion of such an improvement, for the recovery
28 of damages for:

- a. Any deficiency in the design, planning, supervision or observation of
construction or the construction of such an improvement;

- b. Injury to real or personal property caused by any such deficiency; or
- c. Injury to or the wrongful death of a person caused by any such deficiency.

2. The provisions of this section do not apply:

- a. To a claim for indemnity or contribution.
- b. In an action brought against:
 - 1) The owner or keeper of any hotel, inn, motel, motor court, boardinghouse or lodging house in this State on account of his or her liability as an innkeeper.
 - 2) Any person on account of a defect in a product.

The date of substantial completion is the latest of the following dates: the date of the final building inspection, the date the notice of completion is issued, or the date a certificate of occupancy is issued. NRS 11.2055. *See also Dykema v. Del Webb Cmty., Inc.*, 132 Nev. 823, 827, 385 P.3d 977, 980 (2016) (holding issue date for notice of completion is date of recording). If none of the above three events occurred, the date of substantial completion is determined by the rules of the common law. *Id.* ⁴ “[S]ubstantial completion’ implies that the parties have been given the object of their contract and that any omissions or deviations can be remedied.” 22 AM. JUR. 2D DAMAGES § 83 (explaining contract has been substantially performed).

Statutes of repose are distinct from statutes of limitation. As the *Rhodes* Court explained:

The distinction between these two terms [statute of limitations and statute of repose] is often overlooked. A statute of limitations prohibits a suit after a period of time that follows the accrual of the cause of action . . . Moreover, a statute of limitations can be equitably tolled . . . **In contrast**, a statute of repose bars a cause of action after a specified period of time **regardless of when the cause of action was discovered or a recoverable injury occurred.**

⁴ The parties do not dispute that no final building inspection occurred and no notice of completion was issued. Additionally, the parties do not argue the statute is ambiguous.

1 *FDIC v. Rhodes*, 130 Nev. 893, 899, 336 P.3d 961, 965 (2014) (emphasis added). *See also*
2 *Davenport v. Comstock Hills-Reno*, 118 Nev. 389, 390, 46 P.3d 62, 63 (2002) (explaining statutes
3 of repose “absolutely bar any action stemming from injuries caused by a negligently designed or
4 constructed improvement to real property after a certain period of time has passed.”). In addition to
5 and separate from the elements of a cause of action, a plaintiff “must also prove that the cause of
6 action was brought within the time frame set forth by the statute of repose.” *G&H Assocs. v. Ernest*
7 *W. Hahn, Inc.*, 113 Nev. 265, 271, 934 P.2d 299, 233 (1997) (internal citations omitted).

9 The Court will grant the Motion because there is no genuine dispute of material fact the
10 Plaintiff failed to file the FAC within the six-year statute of repose. Even when viewing the
11 evidence in the light most favorable to the Plaintiff, the Plaintiff has not identified any admissible
12 evidence proving the FAC was filed within the six-year statute of repose. Because the Plaintiff
13 bears the burden of persuasion on the statute of repose issue, the lack of affirmative evidence is
14 fatal. First, the statute of repose applies to all of the Plaintiff’s claims, not only the Negligence and
15 Negligence Per Se claims. All of the Plaintiff’s claims are premised on the design and construction
16 of the walls. The plain language of NRS 11.202(1) clearly states that “no action...for the recovery
17 of damages” for construction deficiency can be commenced more than six years after the
18 substantial completion of the improvement. The statute does not differentiate between types of
19 actions, and the only exemptions appear in NRS 11.202(2). Because the Plaintiff’s claims do not
20 fall within the applicable exemptions, the statute of repose applies. Second, the Plaintiff’s
21 argument that evaluations from 2017 to 2018 confirm the lack of substantial completion is
22 unpersuasive. The Plaintiff essentially argues the discovery of any defects precludes substantial
23 completion; however, this argument contradicts the purpose of and policy determination embodied
24 by the statute of repose. The statute of repose is intended to provide parties with finality and
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1 establish a time period after which they cannot be sued for construction deficiencies. *See*
2 *Davenport*, 118 Nev. at 393, 46 P.3d at 65 (“[T]he legislature has opted to provide them [parties
3 involved in creating improvement] with a measure of economic certainty by closing the door to
4 liability . . .”). If the Court were to accept the Plaintiff’s analysis, the statute of repose would
5 potentially last decades for appurtenances and other common interest elements and developments,
6 such as roads, sidewalks, walls, parks, trails and developed open spaces constructed for the benefit
7 of all members of a community. The statute of repose is an absolute time bar based on substantial
8 completion and is unaffected by the later discovery of damage or injury. *See G&H Assocs.*, 113
9 Nev. at 271, 934 P.2d at 233. Accepting the Plaintiff’s argument would eviscerate the purpose of
10 the statute of repose, render the substantial completion standard meaningless and expressly
11 contradict the policy determination made by the Legislature.
12

13
14 Finally, statutes of repose are not subject to equitable or statutory tolling, a concept which
15 has been explained by the Nevada Supreme Court. *See Rhodes*, 130 Nev. at 899, 336 P.3d at 965
16 (explaining statutes of limitations can be tolled and statutes of repose cannot). *See also State Dep’t*
17 *of Taxation v. Masco Builder Cabinet Grp.*, 127 Nev. 730, 738, 265 P.3d 666, 671 (2011)
18 (explaining operation of equitable tolling for statute of limitations). The Plaintiff’s reliance on out-
19 of-state case law is unpersuasive in light of mandatory authority undercutting its argument. *See*
20 *Rhodes*, 130 Nev. at 899, 336 P.3d at 965 (explaining purpose of statute of repose is to “give a
21 defendant peace of mind by barring delayed litigation, so as to prevent unfair surprises that result
22 from the revival of claims that have remained dormant for a period during which the evidence
23 vanished and memories faded.”). For all of these reasons, the Plaintiff has failed to carry its burden
24 to establish its claims were filed within the six-year statute of repose.
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1 **IT IS ORDERED** DEFENDANTS' MOTION FOR SUMMARY JUDGMENT is hereby
2 **GRANTED.**

3 **DATED** this 2 day of October, 2019.
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7 ELLIOTT A. SATTLER
8 District Judge
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1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
3 of the State of Nevada, County of Washoe; that on this _____ day of October, 2019, I deposited in
4 the County mailing system for postage and mailing with the United States Postal Service in Reno,
5 Nevada, a true copy of the attached document addressed to:
6

7
8 **CERTIFICATE OF ELECTRONIC SERVICE**

9 I hereby certify that I am an employee of the Second Judicial District Court of the State of
10 Nevada, in and for the County of Washoe; that on the 2nd day of October, 2019, I electronically
11 filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of
12 electronic filing to the following:
13

14 CHARLES BURCHAM, ESQ.

15 NATASHA LANDRUM, ESQ.

16 DIRK GASPAR, ESQ.

17 DAVID LEE, ESQ.

18 STEPHEN CASTRONOVA, ESQ.

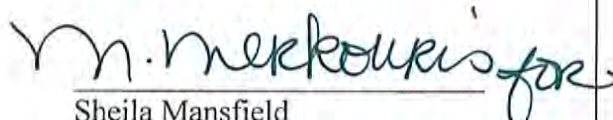
19 THEODORE E. CHRISSINGER, ESQ.

20 MICHAEL S. KIMMEL, ESQ.

21 STEPHEN G. CASTRONOVA, ESQ.

22 JOHN SAMBERG, ESQ.

23 DON SPRINGMEYER, ESQ.
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Sheila Mansfield
Judicial Assistant

CASE NO. CV17-02427

SOMERSETT OWNERS ASSOCIATION VS.
SOMERSETT DEVELOPMENT COMPANY, LTD., ETAL

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

7/15/19
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. Merkouris
(Clerk)
P. Hoogs
(Reporter)

MOTIONS HEARING

1:30 p.m. – Court convened.

John Samberg, Esq., and Royi Moas, Esq., were present on behalf of Plaintiff Somerset Owners Association.

Theodore Chrissinger, Esq., was present on behalf of Defendant Stantec Consulting Services Inc.

Charles Burcham, Esq., was present on behalf of Defendants Somerset Development Company, Ltd.; Somerset Development Corporation; and Somerset, LLC.

Natasha Landrum, Esq., was present on behalf of Defendant Q&D Construction, Inc.

Stephen Castronova, Esq., was present on behalf of Defendant Parson Bros.

COURT reviewed the procedural history of the case, noting that this hearing was set to address three pending motions:

-Motion of Plaintiff to Strike Certain Affirmative Defenses Relating to Statutes of Limitations and Repose; Request for Judicial Notice and Declarations of John Samberg, Esq., and Tracy Carter in Support Thereof, filed January 17, 2019 (Motion to Strike).

-Defendants' Motion for Summary Judgment, filed March 26, 2019 (Omnibus MSJ).

-Somerset Development Company's Separate Motion for Summary Judgment, filed March 26, 2019 (Somerset's MSJ).

COURT further reviewed two additional fully briefed Motions, noting that these Motions will not be addressed until the Court has resolved the three Motions being argued today.

Counsel Samberg addressed the Court regarding legislative history; counsel Chrissinger and counsel Burcham responded.

COURT noted that counsel Samberg's Motion to Strike is in essence a Motion for Summary Judgment, and the Court will consider it as such.

Counsel Samberg presented argument in support of his Motion to Strike.

Counsel Chrissinger responded; and he further argued in opposition of the Motion to Strike, and in support of the Omnibus MSJ.

Counsel Burcham, counsel Castronova and counsel Landrum also responded.

Counsel Samberg replied; and he further presented argument in support of the Motion to Strike, and in opposition of the Omnibus MSJ.

Counsel Chrissinger briefly replied in support of his Omnibus MSJ.

3:54 p.m. – Court stood in recess.

4:01 p.m. – Court reconvened.

Counsel Burcham presented argument in support of Somerset's MSJ.

Counsel Samberg replied.

COURT ORDERED: This matter shall be taken under advisement on the date that the transcript of this hearing has been filed.

4:09 p.m. – Court adjourned.

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

SOMERSETT OWNERS ASSOCIATION, a
domestic non-profit corporation,

Case No. CV17-02427

Plaintiff,

Dept. No. 10

vs.

SOMERSETT DEVELOPMENT CO., LTD., a Nevada limited
liability company; SOMERSETT, LLC, a dissolved Nevada
limited liability company; SOMERSETT DEVELOPMENT
CORPORATION, a dissolved Nevada corporation; Q&D
CONSTRUCTION, INC., PARSONS BROTHERS
ROCKERIES, INC., a Washington corporation; PARSONS
ROCK!, LLC, a Nevada limited liability company, and DOES
5-50 inclusive,

Defendants.

AND RELATED CROSS-ACTIONS

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada,
County of Washoe; that on the 30th day of October, 2019, I electronically filed the Notice of
Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original
pleadings on file with the Second Judicial District Court.

Dated this 30th day of October, 2019

Jacqueline Bryant
Clerk of the Court

By /s/ Yvonne Vilorio
Yvonne Vilorio

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Deputy Clerk

WOLF RIFKIN SHAPIRO SCHULMAN & RABKIN

3556 E. RUSSELL ROAD, 2ND FLOOR
LAS VEGAS, NV 89120

CITY NATIONAL BANK AN RBC COMPANY
ENTERTAINMENT BANKING
(800) 773-7100

4147

16-1606/1220



October 29, 2019

PAY TO THE
ORDER OF

Two Hundred Fifty & NO/100

\$ 250.00

Clerk of the Supreme Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701

DOLLARS

MEMO

Filing Fee / File No.: RN5034-037

CV17-02427


AUTHORIZED SIGNATURE

⑈004147⑈ ⑆122016066⑆ 362200563⑈

Photo Safe Deposit

Details on Back.