IN THE SUPREME COURT OF THE STATE OF NEVADA

ZURICH AMERICAN INS. CO., et al.

Plaintiffs - Appellants

v.

IRONSHORE SPECIALTY INS. CO.

Defendant - Respondent

Case No.: 81428 Electronica

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APPELLANTS' APPENDIX Volume VI

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Assurance Co. of America v. Ironshore Spec. Ins. Co. Case No. 81428

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1	Notice of Removal filed 03/12/15	0001-0045
20-21	Opposition of Ironshore To Zurich's Motion for Partial Summary Judgment filed 10/11/16	4936-4965
21	Opposition of Ironshore to Zurich's Motion for Relief filed 10/04/17	5057-5066

20	Opposition of Zurich To Ironshore's Motion for Summary Judgment filed 10/11/16	4904-4935
21	Order Accepting Certified Questions filed 09/11/20	5103-5104
21	Order Certifying Question filed 07/02/20	5084-5102
21	Order Denying Motion filed 09/18/18	5076-5082
21	Order on Motions for Summary Judgment filed 08/24/17	5043-5049
10	Plaintiffs' Complaint filed on April 12, 2011, in <i>Seven Hills</i> action, Exhibit 12 in Support of Ironshore's Motion for Summary Judgment	2253-2269
8	Plaintiffs' Supplemental Disclosures, dated October 14, 2015, Exhibit 2 in Support of Ironshore's Motion for Summary Judgment	1972-1975
18-19	Portions of subcontracts stating PR Construction Corporation's scope of work, Exhibit 129 in Support of Ironshore's Motion for Summary Judgment	4499-4516
20	Preliminary Cost of Repair for Claim Summary Report for Debard Plumbing/ <i>Drost</i> , Exhibit 146 in Support of Ironshore's Motion for Summary Judgment	4779-4799
8	Printout - Nevada Secretary of State website, Exhibit 75 in Support of Zurich's Motion for Summary Judgment	1857-1859
8	Printout - Nevada State Contractors Board website, Exhibit 74 in Support of Zurich's Motion for Summary Judgment	1855-1856
8	Proof of Service of Subpoena - Centex Homes, Exhibit 71 in Support of Zurich's Motion for Summary Judgment	1845-1846
8	Proof of Service of Subpoena - Champion Masonry, Exhibit 70 in Support of Zurich's Motion for Summary Judgment	1843-1844
20	Reconstruction Cost Guides and Estimates for Debard Plumbing/ <i>Lino</i> June 2013, Exhibit 148 in Support of Ironshore's Motion for Summary Judgment	4805-4836
20-21	Reply of Ironshore To Zurich's Motion for Summary Judgment filed 10/28/16	4992-5011

21	Reply of Zurich To Ironshore's Motion for Summary Judgment filed 10/28/16	4966-4991
21	Reply of Zurich to Opposition To Motion for Relief filed 10/11/17	5067-5075
6	Report issued as to Garcia, Exhibit 41 in Support of Zurich's Motion for Summary Judgment	1337-1340
17	Reserved, Exhibit 104 in Support of Ironshore's Motion for Summary Judgment	4069-4069
17	Reserved, Exhibit 105 in Support of Ironshore's Motion for Summary Judgment	4070-4070
8	Response to Subpoena - Centex Homes, Exhibit 73 in Support of Zurich's Motion for Summary Judgment	1849-1854
8	Response to Subpoena - Champion Masonry, Exhibit 72 in Support of Zurich's Motion for Summary Judgment	1847-1848
1	Second Amended Complaint filed 09/28/15	0088-0131
8	Second Amended Complaint, filed September 28, 2015. (See Docket No. 25.), Exhibit 1 in Support of Ironshore's Motion for Summary Judgment	1971-1971
16	Subcontract Agreement (excerpts) between D.W. Arnold, Inc. and Universal Framing, Exhibit 92 in Support of Ironshore's Motion for Summary Judgment	3872-3876
15	Subcontract Agreement between Coleman Development and J.P Construction Co., Inc. dated April 7, 2000, Exhibit 78 in Support of Ironshore's Motion for Summary Judgment	3583-3599
15	Subcontract Agreement between Coleman Development and J.P. Construction Co., Inc. dated September 27, 2000, Exhibit 79 in Support of Ironshore's Motion for Summary Judgment	3600-3611
15	Subcontract Agreement between Coleman Development and J.P. Construction Co., Inc. dated February 12, 2002, Exhibit 80 in Support of Ironshore's Motion for Summary Judgment	3612-3620
17	Subcontract between The Developers of Nevada, LLC and Champion Masonry dated April 20, 2001, Exhibit 109 in Support of Ironshore's Motion for Summary Judgment	4108-4120

20	Subcontractor Allocation (cost of repair) for Debard Plumbing/ <i>Wikey</i> dated December 17, 2012, Exhibit 150 in Support of Ironshore's Motion for Summary Judgment	4843-4844
8	Subpoena - Centex Homes, Exhibit 69 in Support of Zurich's Motion for Summary Judgment	1840-1842
8	Subpoena - Champion Masonry, Exhibit 68 in Support of Zurich's Motion for Summary Judgment	1837-1839
14	Sun City Anthem – Lot Listing – Duplexes, Exhibit 69 in Support of Ironshore's Motion for Summary Judgment	3334-3339
6	Tender Letter in Garcia, Exhibit 39 in Support of Zurich's Motion for Summary Judgment	1328-1331
6	Tender Letter in Garcia, Exhibit 40 in Support of Zurich's Motion for Summary Judgment	1332-1336
5	Tender Letter served in Mohan, Exhibit 34 in Support of Zurich's Motion for Summary Judgment	1239-1241
15	Third Amended Class Action Construction Defect Complaint filed on August 29, 2011, in the <i>Casallas</i> action, Exhibit 75 in Support of Ironshore's Motion for Summary Judgment	3535-3559
7	Third Amended Complaint filed in Boyer, Exhibit 54 in Support of Zurich's Motion for Summary Judgment	1557-1579
18	Third Amended Complaint filed May 14, 2012, in the <i>Boyer</i> action, Exhibit 124 in Support of Ironshore's Motion for Summary Judgment	4450-4473
18	Third Party Complaint filed by PN II, Inc., on May 22, 2012, in the <i>Boyer</i> action, Exhibit 125 in Support of Ironshore's Motion for Summary Judgment	4474-4490
5	Third Party Complaint filed in Anthem, Exhibit 32 in Support of Zurich's Motion for Summary Judgment	1217-1235
7	Third Party Complaint filed in Anthem, Exhibit 57 in Support of Zurich's Motion for Summary Judgment	1622-1640
7	Third Party Complaint filed in Bennett, Exhibit 53 in Support of Zurich's Motion for Summary Judgment	1535-1556
7	Third Party Complaint filed in Boyer, Exhibit 55 in Support of Zurich's Motion for Summary Judgment	1580-1596

6	Third Party Complaint filed in Casallas, Exhibit 51 in Support of Zurich's Motion for Summary Judgment	1480-1498
8	Third Party Complaint filed in Clark, Exhibit 63 in Support of Zurich's Motion for Summary Judgment	1754-1777
6	Third Party Complaint filed in Garcia, Exhibit 38 in Support of Zurich's Motion for Summary Judgment	1305-1327
6	Third Party Complaint filed in Lino, Exhibit 47 in Support of Zurich's Motion for Summary Judgment	1409-1426
6	Third Party Complaint filed in Marcel, Exhibit 43 in Support of Zurich's Motion for Summary Judgment	1356-1368
7	Third Party Complaint filed in Stallion Mountain, Exhibit 59 in Support of Zurich's Motion for Summary Judgment	1652-1671
7	Third Party Complaint filed in Sun City, Exhibit 61 in Support of Zurich's Motion for Summary Judgment	1684-1716
6	Third Party Complaint filed in Wikey, Exhibit 49 in Support of Zurich's Motion for Summary Judgment	1440-1455
6	Third Party Complaint, Exhibit 45 in Support of Zurich's Motion for Summary Judgment	1383-1395
12	Third-Party Complaint filed by American West Homes, Inc. on November 14, 2008 in the <i>Bennett</i> action, Exhibit 41 in Support of Ironshore's Motion for Summary Judgment	2900-2921
10	Third-Party Complaint filed by Cedco, Inc. on March 27, 2012, in the <i>Seven Hills</i> action, Exhibit 13 in Support of Ironshore's Motion for Summary Judgment	2270-2284
14	Third-Party Complaint filed by Del Webb Communities, Inc., on March 18, 2010, in the <i>Sun City</i> action, Exhibit 67 in Support of Ironshore's Motion for Summary Judgment	3297-3329
11	Third-Party Complaint filed by Lakemont Copper Hills, LLC on August 1, 2012 in the Lino action, Exhibit 28 in Support of Ironshore's Motion for Summary Judgment	2600-2616
11	Third-Party Complaint filed by Silverwing Development on December 21, 2012, in the <i>Drost</i> action, Exhibit 23 in Support of Ironshore's Motion for Summary Judgment	2555-2567

9	Third-Party Complaint filed by Terravita Home Construction Company, Inc. on June 23, 2011, in the <i>Anthem</i> action, Exhibit 6 in Support of Ironshore's Motion for Summary Judgment	2129-2147
13	Third-Party Complaint filed by Terravita Home Construction Company, Inc. on June 23, 2011, in the <i>Anthem</i> action, Exhibit 53 in Support of Ironshore's Motion for Summary Judgment	3138-3156
17	Third-Party Complaint filed by The Developers of Nevada, LLC on May 28, 2013, in the <i>Marcel</i> action, Exhibit 111 in Support of Ironshore's Motion for Summary Judgment	4136-4148
15	Third-Party Complaint filed on February 9, 2012 by Baker-Coleman Construction, Inc., in the <i>Casallas</i> action, Exhibit 76 in Support of Ironshore's Motion for Summary Judgment	3560-3578
14	United Specialty policy no. IRH00CQE0805001 for policy period of February 18, 2008, to February 18, 2009, Exhibit 71 in Support of Ironshore's Motion for Summary Judgment	3357-3407
15	United Specialty policy no. IRH00T960805001 for policy period of October 13, 2008, to October 13, 2009, Exhibit 88 in Support of Ironshore's Motion for Summary Judgment	3695-3746

- The Plaintiff is informed and believes and on that basis alleges as a further direct and proximate result of the defective condition of the Subject Property, the members' of the association, consisting of owners of residential units at Seven Hills Master Community Association, interests in the Subject Property and the value thereof have been reduced and diminished. All of the above-described damages have occurred, but the amount thereof is precisely unknown. When the precise amount is known, it will be established by way of amendment to these pleadings or according to proof at the time of trial.
- 29. The Plaintiff is informed and believes and on that basis alleges as a further direct and proximate result of the defective condition of the Subject Property, the Plaintiff was compelled to retain legal counsel to obtain recovery for the defective conditions. Therefore, the Defendants are liable to the Plaintiff for those attorneys' fees reasonably incurred in order to obtain compensation, in an amount to be determined at trial.

III.

SECOND CAUSE OF ACTION

(Strict Liability Against All Defendants)

- 30. The Plaintiff refers to and incorporates by reference paragraphs 1 through 29 as though fully set forth at this point.
- 31. Subsequent to the completion of the works of improvement, the Subject Property has been defective as herein alleged and the defects were neither known nor apparent to prospective purchasers by reasonable inspection at the time of sale and purchase. The Plaintiff is informed and believes and on that basis alleges that the Subject Property may be additionally defective in ways and to the extent not precisely known, but which will be inserted by way of amendment or will be established at the time of trial, according to proof.
- 32. The Defendants named herein and DOES 3 through 100, inclusive, knew or had reason to know the purchasers of the Subject Property would rely on the skills, judgment and expertise of each of the Defendants herein named in producing and constructing the Subject Property such that it be reasonably fit for its intended purpose.

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- The Plaintiff has timely notified the Defendants of the defective conditions but 33. notwithstanding such notice the Defendants have declined and failed to acknowledge responsibility for the same, or otherwise cause the appropriate restoration and/or repair to be made at their cost.
- The Defendants, and each of them, as builders, are strictly liable and 34. responsible to the Plaintiff for all damages suffered as a result of the above-described deficiencies.
- The Plaintiff is informed and believes and on that basis alleges as a direct and 35. proximate result of the defective conditions alleged herein, the Plaintiff has suffered damages in an amount precisely unknown, but believed to be in excess of this court's jurisdiction in that it has been, and now is, required to perform works of construction, restoration and repair to portions of the Subject Property to prevent further damage and to restore the same to its proper condition. Further, the Plaintiff has and will incur expert fees and costs to investigate the defective conditions to determine the nature, extent and cause of the defects as well as the reasonable and appropriate repairs. The Plaintiff will establish the precise amount of such damages at trial, according to proof.
- The Plaintiff is informed and believes and on that basis alleges as a further 36. direct and proximate result of the defective condition of the Subject Property, the members' interests in the Subject Property and the value thereof have been reduced and diminished. All of the above-described damages have occurred, but the amount thereof is precisely unknown. When the precise amount is known, it will be established by way of amendment to these pleadings or according to proof at the time of trial.
- 37. The Plaintiff is informed and believes and on that basis alleges as a further direct and proximate result of the defective conditions of the Subject Property, the Plaintiff was compelled to retain legal counsel to obtain recovery for the defective conditions. Therefore, the Defendants are liable to the Plaintiff for those attorneys' fees reasonably incurred in order to obtain compensation in an amount to be determined at trial.

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IV.

THIRD CAUSE OF ACTION

(Negligence Against All Defendants)

- 38. The Plaintiff refers to and incorporates by reference paragraphs 1 through 37 as though fully set forth at this point.
- The Plaintiff is informed and believes and on that basis alleges the Defendants, 39. and each of them, including DOES, were and are builders, contractors, subcontractors, suppliers, materialmen, architects and/or engineers, or other persons, entities or professionals who participated in the process of developing design, engineering and/or construction of the Subject Property and who performed works of labor, supplied materials, equipment and/or services necessary for the building and construction, including supervision of construction of the Subject Property with the knowledge that the Subject Property would be sold to and used by members of the public. In so doing, said Defendants, in their capacity as developer builder, contractor, subcontractor, supplier, materialman, architect, engineer and/or general contractor or otherwise, caused the Subject Property to be designed, engineered and/or constructed through their own works of labor, and supplying of materials, equipment and services, and through causing other contractors and subcontractors, including other Defendants, to perform works of labor, and to supply materials, equipment and services in order to properly complete the Subject Property so it could be sold to and used by members of the general public.
- 40. The Plaintiff is informed and believes and on that basis alleges that all the Defendants named herein, whether developer builder, contractor, subcontractor, supplier, materialman, architect, engineer or otherwise, performed work, labor and/or services upon the Subject Property and each knew or should have known that if the Subject Property was not properly or adequately designed, engineered, supervised and/or constructed, owners and users would be substantially damaged thereby and the Subject Property would be defective and not of merchantable quality. Likewise, the Defendants knew or reasonably should have known that if the Subject Property was not adequately designed, engineered,

- 41. The Defendants named herein were under a duty to exercise ordinary care as developer, builder, contractor, subcontractor, supplier, materialman, architect, engineer or otherwise to avoid reasonably foreseeable injury to users, owners and purchasers of the Subject Property and knew, and should have foreseen with reasonable certainty that purchasers, owners and/or users would suffer the monetary damages set forth herein if said Defendants failed to perform their duty to cause the Subject Property to be designed, engineered and completed in a proper and workmanlike manner.
- 42. In performing the works as developer, builder, contractor, subcontractor, supplier, materialman, architect, engineer or otherwise, the Defendants, and each of them, failed and neglected to perform the work, labor and services properly or adequately in that each of said Defendants has negligently, carelessly and in an unworkmanlike manner performed their work, labor and/or services such that the Subject Property as described herein is designed, engineered and/or constructed improperly, negligently, carelessly and/or in an unworkmanlike manner.
- 43. The Plaintiff is informed and believes and on that basis alleges the Defendants, and each of them, in addition to that heretofore alleged, violated the Building Codes and regulations of the Clark County, the Uniform Building Codes and/or the Nevada Revised Statutes relating to development, common interest subdivisions, trade professionals, design professionals, construction and sales of real estate.
- 44. The Plaintiff is informed and believes and on that basis alleges, in addition to that heretofore alleged, the damages sustained by the Plaintiff were proximately caused by the violations of the Codes alleged above.
- 45. The Plaintiff is informed and believes and on that basis alleges the damages sustained by the Plaintiff are those which the Codes were designed to prevent and the Plaintiff and its members are within the class of persons for whose protection the Codes were adopted.

46. As a direct and proximate result of the foregoing violations of codes,
negligence, carelessness and unworkmanlike conduct, actions and/or omissions by said
Defendants, the Plaintiff has suffered damages in an amount precisely unknown, but
believed to be in excess of this court's jurisdiction, in that it has been, and now is, required
to perform works of construction, restoration and repair to portions of the Subject Property
to prevent further damage and to restore the same to its proper condition. Further, the
Plaintiff has and will incur expert fees and costs to investigate the defective conditions to
determine the nature, extent and cause of the defects as well as the reasonable and
appropriate repairs. The Plaintiff the precise amount of such damages at trial, according to
proof.
47. The Plaintiff is informed and believes and on that basis alleges as a furthe

- direct and proximate result of the defective condition of the Subject Property, the Plaintiff and its members interests in the Subject Property and the value thereof have been reduced and diminished. All of the above-described damages have occurred, but the amount thereof is precisely unknown. When the precise amount is known, it will be established by way of amendment to these pleadings or according to proof at the time of trial.
- The Plaintiff is informed and believes and on that basis alleges as a further 48. direct and proximate result of the defective condition of the Subject Property, the Plaintiff was compelled to retain legal counsel to obtain recovery for the defective conditions. Therefore, the Defendants are liable to the Plaintiff for those attorneys' fees reasonably incurred in order to obtain compensation in a sum to be determined at trial.

٧.

FOURTH CAUSE OF ACTION

(Breach of Express Warranties against all Defendants)

- The Plaintiff refers to and incorporates by reference paragraphs 1 through 48 49. as though fully set forth at this point.
- Plaintiff is informed and believes and based thereon alleges that Defendants 50. and DOES 1 through 100, inclusive, expressly warranted through sales brochures of the

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Association Development, related advertising, circulars and materials; and through the
contracts of sale and related sales warranty information regarding the Association
Development, that the Subject Property was designed and constructed in a commercially
reasonable and habitable manner when Defendants offered the common areas and
appurtenances of the Subject Property for sale to the general public.

- 51. Plaintiff's members relied on Defendants express representations that the Subject Property was marketed for sale to the general public, and thus of merchantable quality suitable for their intended purpose, without major, significant defective causes, effects or conditions, un-remedied or unrepaired by said Defendants.
- 52. Defendants breached these express warranties by selling the common areas and appurtenances of the Subject Property with the above-described deficiencies in the design, specification, planning supervision, observation of construction, development and/or improvement and repair of the Subject Property.
- 53. As a direct and proximate result of the breach of the express warranties by Defendants as herein above alleged, Plaintiff and its members suffered damages stemming from the construction defects at the Subject Property.
- 54. Plaintiff is informed and believes and thereupon alleges that as a direct and proximate result of the breaches set forth herein, Plaintiff has suffered damages in an amount precisely unknown, but believed to be within the jurisdiction of the Court in that it has been and will hereafter be required to perform investigations and works of repair, restoration, and construction to portions of the Subject Property to prevent further damage and to restore the structures to their proper condition and/or will suffer damages in an amount the full nature and extent of which shall be ascertained according to proof at trial.

VI.

FIFTH CAUSE OF ACTION

(Declaratory Relief against the Defendants)

55. The Plaintiff refers to and incorporates by reference paragraphs 1 through 54 as though fully set forth at this point.

56. Plaintiff is informed and believes and thereupon alleges that an actual controversy now exists between Plaintiff and Defendants regarding the interpretation of NRS 40.600 et. seq. as it relates to the Plaintiffs' pre-litigation claims and this Complaint, the determination of which is essential to the administration of justice in this lawsuit. In particular, Plaintiff alleges that these Defendants failed to respond to certain defects pursuant to NRS 40.600 et. seq., and therefore forfeited its right to repair under NRS 40.600 et. seq.. Plaintiff is informed and believes and thereupon alleges that Defendants assert they were never provided an opportunity to make repairs before litigation was initially commenced. Plaintiffs' assert that Defendants were given the opportunity to, and in fact, in some cases, did attempt to make repairs, however the repairs have since failed, necessitating the commencement of litigation. Plaintiffs further allege that irrespective of the Court's determination on this single issue, pursuant to NRS 40.600 et. seq., this action was properly commenced and the Plaintiff has standing to commence this action.

- 57. Plaintiff desire a judicial determination of their respective rights including a stay of any and all applicable statutes of repose or limitation pending further discovery implicating design professionals not yet named pursuant to NRS 40.6884; and a judicial determination of duties owed by the Defendants in connection with the matters herein alleged and a judgment in Plaintiffs' favor, as to any obligations by Defendants, and each of them, owed to Plaintiff.
- 58. Plaintiff is informed and believes and thereupon alleges that if it is determined that these Defendants did not respond to certain defects, then the Court may impose certain penalties against Defendants and not award attorney's fees to these Defendants and may not deny an award of attorney's fees to Plaintiff.

WHEREFORE, the Plaintiff prays judgment against the Defendants, and each of them, as follows:

- 1. For compensatory damages in excess of this court's minimum jurisdiction of fifty thousand dollars (\$50,000.00) according to proof;
 - 2. For costs of suit incurred herein, including all costs as provided for by statute;

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E BR(1, Suite 26 1a 89145 1: 233-206	11
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IRSIANO BARRY LAVELLE BRU 851 S. Rampart Blvd., Suite 26 Las Vegas, Nevada 89145 702-233-2063 FAX: 233-206	13 14 15 16 17
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3. For attorneys' fees reasonably incurred to obtain compensation for the defective conditions;

- 4. For all interest as provided by law, including pre-judgment interest; and
- 5. For such other and further relief as the court deems just and proper.

Dated this 12-day of April, 2011.

PURSIANO BARRY LAVELLE BRUCE HASSIN, LLP

Ву

DAVID T. PURSIANO, ESQ.
Nevada State Bar No. 005464
LAUREL L. BARRY, ESQ.
Nevada State Bar No.0010311
JAMES V. LAVELLE III, ESQ.
Nevada State Bar No. 000555
851 South Rampart Blvd., Ste. 260
Las Vegas, Nevada 89145
(702) 233-3063

Exhibit 36

Exhibit 36

Electronically Filed 08/14/2012 03:54:44 PM TPC 1 **CLERK OF THE COURT** NICHOLAS B. SALERNO, ESQ. Nevada Bar No. 6118 SHANNON G. SPLAINE, ESQ. Nevada Bar No. 8241 LINCOLN, GUSTAFSON & CERCOS 3960 Howard Hughes Parkway Suite 200 Las Vegas, NV 89169 5 (702)257-1997/FAX (702)257-2203 б 7 Attorneys for Defendants, GRANITE SILVER DEVELOPMENT PARTNERS, LIMITED PARTNERSHIP; FC-SILVER CANYON, INC; AMERICAN NEVADA SEVEN 8 HILLS LIMITED PARTNERSHIP; SS SEVEN HILLS, INC.; SILVER CANYON CORPORATION; and AMERICAN NEVADA COMPANY, LLC 9 10 DISTRICT COURT 11 CLARK COUNTY, NEVADA 12 SEVEN HILLS MASTER COMMUNITY CASE NO.: A-11-639041-D 13 ASSOCIATION, a Nevada Non-Profit DEPT. NO.: XXII Corporation, 14 Plaintiff, 15 GRANITE SILVER DEVELOPMENT PARTNERS, LIMITED PARTNERSHIP: ٧. 16 FC-SILVER CANYON, INC.; GRANITE SILVER DEVELOPMENT AMERICAN NEVADA SEVEN HILLS PARTNERS, LIMITED PARTNERSHIP, a 17 LIMITED PARTNERSHIP; SS SEVEN foreign limited partnership; FC-HILLS, INC.; SILVER CANYON SILVER CANYON, INC., a foreign CORPORATION; and AMERICAN corporation; AMERICAN NEVADA NEVADA COMPANY, LLC'S AMENDED SEVEN HILLS LIMITED PARTNERSHIP, THIRD-PARTY COMPLAINT 19 a Nevada limited partnership; SS INC., a SEVEN HILLS, 20 Nevada corporation; SILVER CANYON CORPORATION, 21 Nevada corporation; AMERICAN NEVADA COMPANY, LLC, a Nevada Limited 22 Liability Company, and through 100, inclusive, 23 24 Defendants. 25 GRANITE SILVER DEVELOPMENT PARTNERS, LIMITED PARTNERSHIP, foreign limited partnership; FC-SILVER CANYON, INC., a foreign 27 corporation; AMERICAN NEVADA SEVEN HILLS LIMITED PARTNERSHIP, 28 a Nevada limited partnership; SS -1-

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   SEVEN
           HILLS,
                    INC., a
                               Nevada
                    SILVER
                               CANYON
    corporation;
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   CORPORATION,
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                       a
    corporation;
                   AMERICAN
                               NEVADA
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    COMPANY, LLC,
                   a Nevada Limited
   Liability Company,
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         Third-Party Plaintiffs,
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    CEDCO.
               INC.,
                               Nevada
                         a
                  CREATIVE
    corporation;
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               INC.,
    SOURCE,
                               Nevada
                         а
    corporation;
                   HAYDON
                             BUILDING
    CORP.,
            a
               foreign corporation;
   LLO, INC. dba ACME ELECTRIC, a
   Nevada
              corporation;
                                ARTLO
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    INDUSTRIES, INC., a California
    corporation; DAVIS MANUFACTURING,
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    INC., a Nevada corporation; INTEX
    FORMS,
            INC.,
                           California
                       a
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    corporation; and DOES 1-50, and
14
    ROES 4-100, inclusive,
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         Third-Party Defendants.
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       DEFENDANTS/THIRD-PARTY PLAINTIFFS, GRANITE SILVER DEVELOPMENT
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      PARTNERS, LIMITED PARTNERSHIP; FC-SILVER CANYON, INC.; AMERICAN
       NEVADA SEVEN HILLS LIMITED PARTNERSHIP; SS SEVEN HILLS, INC.;
18
       SILVER CANYON CORPORATION; and AMERICAN NEVADA COMPANY, LLC'S
                       AMENDED THIRD-PARTY COMPLAINT
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20
         COME NOW, Defendants/Third-Party Plaintiffs, GRANITE SILVER
21
    DEVELOPMENT PARTNERS, LIMITED PARTNERSHIP; FC-SILVER CANYON, INC.;
22
   AMERICAN NEVADA SEVEN HILLS LIMITED PARTNERSHIP; SS SEVEN HILLS,
23
    INC.; SILVER CANYON CORPORATION; and AMERICAN NEVADA COMPANY, LLC,
24
    (hereinafter "Third-Party Plaintiffs"), and for causes of action
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   against Third-Party Defendants, and each of them,
                                                             allege as
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    follows:
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FIRST CAUSE OF ACTION

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(Equitable/Partial/Total Indemnification and/or Contribution)

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The true names or capacities, whether individual, corporate, associate or otherwise, of Third-Party Defendants, DOES 1 through 50 and ROES 4 through 100, inclusive, are unknown to Third-Party Plaintiffs at this time, who therefore sue said Third-Party Defendants by such fictitious names and will ask leave of Court to amend this Third-Party Complaint to show the true names and capacities when the same have been ascertained. Third-Party Plaintiffs are informed and believe and thereon allege that each of the Third-Party Defendants designated herein as a ROE were the builders, constructors, subcontractors, improvers, and/or component part suppliers or installers with respect to the real property and are responsible in some manner for the events and happenings herein referred to and which proximately caused damages to Plaintiff and Third-Party Plaintiffs, as hereinafter alleged.

II.

all times mentioned herein, each of the Third-Party Defendants were the agent and employee of each of the remaining Third-Party Defendants and was at all times acting within the purpose and scope of said agency and employment.

III.

At all times mentioned herein, Third-Party Plaintiffs are business entities duly organized and existing under the laws of the State of Nevada and doing business in the County of Clark, State of Nevada.

 IV.

At all times mentioned, Third-Party Plaintiffs are informed and believe and thereon allege that each Third-Party Defendant is an individual, corporation or entity duly organized and existing under the laws of the State of Nevada or doing business in the State of Nevada, County of Clark, and that each Third-Party Defendant is an alter ego of the principals of such Third-Party Defendant.

٧.

Plaintiff, SEVEN HILLS MASTER COMMUNITY ASSOCIATION, a Nevada Non-Profit Corporation (hereinafter referred to as "Plaintiff"), filed its Complaint in the Clark County Eighth Judicial District Court, Case No. A639041, alleging among other things, that Defendants therein caused injuries and damages to Plaintiff. The allegations of the Complaint are incorporated herein by this reference as though fully set forth at this place as is the Answer filed in this matter on behalf of Third-Party Plaintiffs.

VI.

At all times herein mentioned, Third-Party Plaintiffs are informed and believe and upon such information and belief allege that Third-Party Defendants, and each of them, were the builders, constructors, subcontractors, improvers, and/or component part suppliers or installers with respect to the real property and improvements referenced in Plaintiff's Complaint.

VII.

At all times herein mentioned, Third-Party Plaintiffs are informed and believe and upon such information and belief allege that Third-Party Defendants, and each of them, negligently and

carelessly built, constructed, subcontracted, improved, supplied, and installed component parts of the real property and improvements referenced in Plaintiff's Complaint.

VIII.

Without admitting any of the allegations of Plaintiff's Complaint, Third-Party Plaintiffs allege that if there is any liability on the part of Third-Party Plaintiffs to Plaintiff, or to anyone, as a result of the alleged damages suffered by Plaintiff, said damages were proximately caused by the above-described negligent and careless conduct of Third-Party Defendants, and each of them.

IX.

Third-Party Plaintiffs deny the negligence or other wrongful conduct on its part, but if Third-Party Plaintiffs are found to have been negligent or guilty of wrongful conduct, said negligence or wrongful conduct was of a secondary and passive nature, while Third-Party Defendants, and each of them, were actively and primarily negligent as described above.

X.

By reason of the foregoing, and in equity and in good conscience, if Plaintiff recovers against Third-Party Plaintiffs, then Third-Party Plaintiffs are entitled to an equitable apportionment of the liability amongst Third-Party Plaintiffs and Third-Party Defendants, and each of them, and/or contribution by Cross-Defendants upon payment of judgment, according to the extent of their respective responsibilities for the injuries and damages sustained by Plaintiff as a result of any judgment returned against Third-Party Plaintiffs based upon Plaintiff's Complaint. Third-

 Party Plaintiffs therefore seek equitable/partial/total indemnity and/or contribution against Third-Party Defendants, and each of them, for any amounts which may be paid by way of judgment, settlement, or any amounts expended for investigation, attorneys' fees, Court costs and such other and further expenses as may be incurred in the defense of said claim.

XI

Further, Third-Party Plaintiffs seek implied contractual indemnity from Third-Party Defendants, and each of them, for any amounts which may be paid by way of judgment, settlement, or any amounts expended for investigation, attorneys' fees, court costs and such other and further expenses as may be incurred in the defense of said claim. Third-Party Plaintiffs allege that their liability, if any, to Plaintiff is solely derivative or vicarious in nature in that their negligence, if any, is passive and secondary and Third-Party Defendants' negligence is active and primary and the immediate and proximate cause of Plaintiff's loss.

SECOND CAUSE OF ACTION

(Express Indemnity as to all Third-Party Defendants) XII.

Third-Party Plaintiffs refer to Paragraphs I through XI of its First Cause of Action and by such reference hereby incorporates the same herein as though fully set forth at this place.

XIII.

Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, entered into written Subcontracts with Third-Party Plaintiffs which require Third-Party Defendants, and each of them, to save and hold Third-

Party Plaintiffs harmless from the claims asserted by Plaintiff in this matter as follows:

Subcontractor shall indemnify and hold and Contractor and the Property free of and harmless from any and all actions or causes of action, claims, demands, liabilities, losses, damages, or expenses of any kind and nature, including counsel or attorneys' fees and court costs, whether incurred under this Contract or otherwise, which Contractor or the Property shall or may at any time sustain or be liable in consequence of any inquiry or damage to person or property which may arise directly or indirectly from the performance of this Contract by the Subcontractor, whether such performance be by the Subcontractor or by subcontractor(s), materialmen or suppliers or anyone directly or indirectly employed or engaged by any of them.

Said provision includes a separate and immediate duty to defend Third-Party Plaintiffs and is more fully set forth in the Subcontracts between Third-Party Plaintiffs and Third-Party Defendants, and each of them, which is incorporated herein by reference.

XIV.

Third-Party Plaintiffs have requested that Third-Party Defendants, and each of them, defend, indemnify and hold Third-Party Plaintiffs harmless, pursuant to the terms of the written contracts, for damages, attorneys fees and costs, among other things. Third-Party Plaintiffs hereby again tender their defense and indemnification to Third-Party Defendants, and each of them, by way of this Third-Party Complaint pursuant to the terms of the written contracts between the Third-Party Plaintiffs and Third-Party Defendants, and each of them.

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 Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, have refused to defend, indemnify and hold Third-Party Plaintiffs harmless, pursuant to the terms of the written contracts, for damages, attorneys fees and costs, among other things.

XV.

XVI.

As a direct and proximate result of Third-Party Defendants' refusal to defend, indemnify and hold Third-Party Plaintiffs harmless, pursuant to the terms of the written contracts, for damages, attorneys fees and costs, among other things, Third-Party Plaintiffs have been damaged in a sum which will be shown according to proof.

THIRD CAUSE OF ACTION

(Breach of Contract)

XVII.

Third-Party Plaintiffs refer to Paragraphs I through XVI of its First and Second Causes of Action and by such reference hereby incorporates the same herein as though fully set forth at this place.

XVIII.

Third-Party Plaintiffs are informed and believe and thereon alleges that the aforementioned written Subcontracts between Third-Party Plaintiffs and Third-Party Defendants, and each of them, include an obligation to provide general liability coverage for Third-Party Plaintiffs as an additional insured to Third-Party Defendants, and each of their applicable general liability policies.

-

 XIX.

Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, have breached the aforementioned provisions of the contract by failing to purchase public liability insurance consistent with the aforementioned contractual requirements. As a direct and proximate result of Third-Party Defendants' breach of contract, Third-Party Plaintiffs have been damaged in a sum according to proof.

FOURTH CAUSE OF ACTION

(Breach of Express Warranty/Contract)

XX.

Third-Party Plaintiffs refer to Paragraphs I through XIX of its First, Second, and Third Causes of Action and by such reference hereby incorporate the same herein as though fully set forth at this place.

XXI.

Third-Party Plaintiffs are informed and believe and thereon allege that the aforementioned contracts entered with Cross-Defendants provided all work would be performed in conformance with City, County, and/or State regulations, in conformance with the plans and specifications, and in a good workmanlike manner.

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Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, breached the aforementioned portion of the contract by failing to provide materials and perform work consistent with the contractual language above.

XXIII.

As a direct and proximate result of Third-Party Defendants' breach of warranty, Third-Party Plaintiffs have been damaged in the sum according to proof.

FIFTH CAUSE OF ACTION

(Breach of Implied Warranty)

XXIV.

Third-Party Plaintiffs refer to Paragraphs I through XXIII of its First, Second, Third, and Fourth Causes of Action and by such reference hereby incorporate the same herein as though fully set forth at this place.

XXV.

Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, impliedly warranted that all work performed pursuant to the agreement would be performed in a good and workmanlike manner, in full accordance with the provisions and conditions of the written agreements, the plans, specifications, local building codes, and industry practices.

IVXX.

Third-Party Plaintiffs relied upon said implied warranties and believed that such work was performed pursuant to said implied warranties and would be of a good and workmanlike manner and fit for its intended use and purpose.

XXVII.

Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, breached said warranties and that it has been alleged by Plaintiff that the

residential units and common areas of the project are experiencing failure in various respects.

XXVIII.

As a proximate result of the breach of express/implied warranties by Third-Party Defendants, and each of them, Third-Party Plaintiffs allege that they will suffer damages in a sum which will be shown according to proof.

XXIX.

This Third-Party Complaint will serve as notice of such conditions, and Third-Party Plaintiffs are informed and believe and thereon allege that Third-Party Defendants, and each of them, decline to acknowledge their responsibilities to repair the alleged defects as referenced above.

SIXTH CAUSE OF ACTION

(Declaratory Relief)

XXX.

Third-Party Plaintiffs refer to paragraphs I through XXIX of its First, Second, Third, Fourth, and Fifth Causes of Action and by such reference hereby incorporate the same herein as though fully set forth at this place.

IXXX.

A dispute has arisen and actual controversy now exists between Third-Party Plaintiffs and Third-Party Defendants, and each of them, as to the rights and liabilities with respect to any ultimate responsibility in the underlying action, and with respect to the rights to receive, or duty to give, indemnification in proportion to their comparative fault, if any. Third-Party Plaintiffs contend that if they suffer judgment in the underlying action or if they

pay monies by way of reasonable compromise of said claims, Third-Party Plaintiffs are entitled to be indemnified by Third-Party Defendants, and each of them, and to judgment over and against them, to the extent Third-Party Defendants' responsibility in the underlying action exceeds its percentage of negligence, fault or liability, if any. Third-Party Plaintiffs are informed and believe that Third-Party Defendants, and each of them, contend to the contrary. Therefore, an actual controversy exists relative to the legal duties and rights of the respective parties.

XXXII.

All of the rights and obligations of the parties hereto arose is actually one transaction or one series what transactions, happenings or events, all of which can be settled and a judgment in this one action. in Third-Party Plaintiffs allege that an actual controversy exists between the parties to the original Complaint and Third-Party Complaint under the circumstances alleged. Α declaration of rights, responsibilities and obligations of Third-Party Plaintiffs and Third-Party Defendants, and each of them, is essential to determine their respective obligations in connection with the principle action and Third-Party claims. Third-Party Plaintiffs have no true and speedy remedy at law of any kind.

XXXIII.

It has been necessary for the Third-Party Plaintiffs to retain the services of an attorney to bring this action. Accordingly, Third-Party Plaintiffs may be entitled to recover their reasonable attorneys' fees and costs incurred herein.

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Exhibit 37

Exhibit 37

	Electronically Filed 09/08/2010 05:02:51 PM
,	4 . 40
1	ACOM Duane E. Shinnick, Esq.
2	Bar No. 7176 CLERK OF THE COURT Eric Ransavage, Esq.
3	Bar. No. 8876
4	Bradley S. Rosenberg, Esq. Bar No. 8737
5	SHINNICK, RYAN & RANSAVAGE P.C. 2881 Business Park Court, Suite 210
6	Las Vegas, NV 89128
7	Tel. (702) 631-8014 Fax (702) 631-8024
-	dshinnick@ssllplaw.com eransavage@ssllplaw.com
8	brosenberg@ssllplaw.com
9	Attorneys for Plaintiffs
10	
11	
12	DISTRICT COURT
13	CLARK COUNTY, NEVADA
14	JOSE H. GARCIA, individually; DAVID and CASE NO. A-10-616729-D LAURIE DOVE, individually; SANDRA D.
15	JARVIS, individually, SANDKAD. DEPT. NO. XIX
16	individually; JENELLE BEASON, individually;
17	CHRIS and VALERIE BRUNDEGE, individually; \(\) RENOR CABUAL, individually; JOSEPH and \(\) PLAINTIFFS' FIRST AMENDED
18	ROSEMARIE CERVANTES, individually; CONSTRUCTION DEFECT COMPLAINT
19	LEONARD FLORES and TRACY HALLAWAY, { individually; WILHELMUS and MARIA
	GOLLER, individually; SHAUNTELE
20	HARLESS, individually; WENDY M. JIMENEZ,
21	individually; CATHERINE KELLEY, individually; ARISTIDES and IRELLA LIRIANO.
22	individually; JENNIFER and TOMMY ROLLS,
23	individually; TEODOSO and FRANCISCA (RUELAS, individually; GARY D. SHARPE,
24	individually; MARIE F. SMITH, individually; (
25	MICHAEL W. SMUTZ, individually; RONALD { L. TURNER, individually; WESLEY C. }
	WRIGHT, individually; NATHAN and MONICA)
26	ARMSTRONG, individually; JOSE A. ARROYO-)
27	LAYANDO and PRISCILLA L. ARROYO, individually;
28	HAROLD and PEGGY W. CALHOUN,
	individually; RICHARD and GLORIA
	(00070356,DOC)
	COMPLAINT FOR DAMAGES

CHERCHIO, individually: HITOMI CONREY and STEVE SHIELDS, individually: RICHARD S.) 2 and MARGARET J. DAUM, individually: KYLE and REBEKAH DAVIS, individually; KENNETH 3 F. DONAR, individually; THERESA ELKINS, individually; JOHN A. EUBANKS, individually; MIKE EVANS and PIETA FORD, individually; 5 JOHNNIE P. FARR, individually; SHAWN FARVER, individually; EDGAR DEAN GIBSON 6 and ANN MARIE GIBSON, individually; 7 JENNIFER L. GUTH; individually; BILL HINES, individually; GEORGE and DONNA HOBBS, 8 individually; MICHAEL and LORI A. HUMPHREY, individually; LARRY LYNN 9 KINGERY, individually; SVEN and LENA 10 HORVI, individually; KENNETH P. and MARY BETH KLEIN, individually; CYNTHIA L. HALL 11 individually: HARRY HIMMENGER, 12 individually; BLANCHE KIMMEL, individually; GILBERT A. MADDOCK, individually: 13 GILBERT and JILL MADRID, individually: FIDELIS C. MADU, individually; TERRENCE E. 14 and ANNA MCCLURE, JR., individually; JON 15 and MARY MCGILL, individually; LARRY D. and NOREEN M. MILES, individually; NOEL and) STACI MILLAN, individually, RANDALL D. and DAWN M. MILLER, individually; ALAN and 17 JANET MUNCIL, individually; ELENA 18 NORINA, individually: JOHN C. O'SHEA. individually; FREDDIE M. PITTMAN, 19 individually; CHARLES RAIMONDA, individually; DENNIS G. and MARIA L. 20 RAINES, individually; MARGARITA RAMOS, 21 individually; MARK RICHTER, individually; PAUL and BARBARA SCHMITT, individually: 22 KRISTINA M. SIMMONS, individually; JOVITO 23 C. and ERLINDA B. VALLE, individually; JOHNNY VELAZQUEZ, individually; LAURA 24 VENTER, individually: STEVEN C. and SUSAN L. WADLOW, individually; RONALD L. 25 WARNER, individually; DAVID C. WEST. individually; DESIREE WYLIE, individually; 26 ALFONSO ZAYAS, individually; CHRIS 27 CAMPBELL, individually; MARIA LAMBERT, individually; ROBERT P. (00070356,DOC) COMPLAINT FOR DAMAGES

and PREEYAR PADGETT, individually: DIANN MARCELLA, individually: FREDERICK M. GEORGE, individually; CATHY J. GEORGE, individually: SHARON GOODIE, individually: DEBRA BROWN, individually; LELANI and GERALD M. MATEO, individually; JILL and CRAIG BOOKER, individually: TIMOTHY and 5 KERRI MILLER, individually; JAIME V. and C. MARIE VALDEZ, individually; SHANNON 6 MUNSELL, individually; YVONNE BECKETT, 7 individually; EULAE BLACKWELL, individually; RICHARD and LUCILLE TYSON, individually; JOSEPH and ELENA MONTGOMERY, individually: BARRY and BABETTE CARPENTER, individually; 10 LIONEL RAPOSA, individually, ANN MARIE LACROIX, individually; NELSON and CHERYL 11 D. DIXON, individually; ARTEMIO SANABRIA. 12 individually; DIANE M. COLLINS, individually; STEVE CALIENDO, individually; ANTONIO J. 13 HERRERA, individually; GLORIA DAVIS, individually; THOMAS J. DEMARCHIS, individually; JAMES R.BICHLER, individually; 15 SHAWN and GINER ARRUTI, individually: TYREE GLASPER, JR., individually; 16 GILBERT BELTRAN, individually; HECTOR and AMAE J.S.M. CINTRON, 17 individually; KENNETH C. LAUB, individually; 18 PATRICIA GILDEA, individually: BERNARD J. IWASCZYSZYN, individually; 19 JEFFREY AMICO, individually; PEDRO GRANDE, individually; JERRY and SHEENA 20 M.WASHINGTON, individually; KEITH A. and 21 MIRTHA C. KAWANA, individually: GREG DEROSA, individually; BRAD and ALLISON 22 BIRD, individually; JASON L. and ROCIO G. BARREDO-UMLAUF, individually: JEFF 23 BOYLE, individually; BARBARA ULLRICH, 24 individually: MAX WASSERMAN, individually: JAY COHEN, individually: GARRISON 25 BALUSEK, individually; CHERYL WILLIAMSON, individually: 26 MATTHEW and MICHELLE SCHUCK, 27 individually; MATTHEW and LORI TOLLESON, individually; RENEE JOHNSON, individually; 28 {00070356.DOC}

3

THOMAS ANDERSON, individually: GLENN MILLER, individually; ANDREA CONNOLLY and MICHAEL VICIOUS, individually; SAADIA JONES, individually; CHRISTINE MCCAULEY, individually; JAMES LEO RUGGER and PAMELA J. WINEGART, individually; AUNDRIA PINKNEY, individually; SHAWNA COOPER, individually; PAUL J. and TOK N. GUNNER, individually; JAMES K. HARDEMAN, individually; SALVADOR LOZANO, individually; JARROD BRADEMAN, individually; JEROME and PATRICIA GRETKA, individually; KENT A. ANDRADE, individually; BRYAN and SHERYL ADAMS. individually; JASON DRAGO, individually; and ROES 166-600, inclusive

Plaintiffs.

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CENTEX HOMES, a Nevada General Partnership; and DOES 1 through 500, inclusive,

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that Plaintiff's hereby file this FIRST AMENDED CONSTRUCTION

DEFECT COMPLAINT pursuant to the attached STIPULATION AND ORDER (Exhibit "1"). This

First Amended Complaint is being filed in order to identify by name the following Plaintiff homeowners:

ROE	PLAINTIFF	ADDRESS
1	NATHAN ARMSTRONG	6668 Majestic Pearl Place
2	MONICA ARMSTRONG	North Las Vegas, NV 89084
3	JOSE A. ARROYO-LAYANDO	358 Loma Marsh Court
4	PRISCILLA L. ARROYO	North Las Vegas, NV 89084
5	MAE RUTH BYRD	6638 Cinnabar Coast Lane
		North Las Vegas, NV 89084
6	HAROLD CALHOUN	721 Regal Robin Way
7	PEGGY W. CALHOUN	North Las Vegas, NV 89084

{00070356.DOC}

COMPLAINT FOR DAMAGES

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8	RICHARD CHERCHIO	422 Horse Pointe Ave.
9	GLORIA CHERCHIO	North Las Vegas, NV 89084
		417 Horse Pointe Ave.
		North Las Vegas, NV 89084
		413 Horse Pointe Ave.
		North Las Vegas, NV 89084
10	HITOMI CONREY	621 Painted Opus Street
11	STEVE SHIELDS	North Las Vegas, NV 89084
12	RICHARD S. DAUM	435 Regal Robin Way
13	MARGARET J. DAUM	North Las Vegas, NV 89084
14	KYLE DAVIS	6722 Gentle Harbor St.
15	REBEKAH DAVIS	North Las Vegas, NV 89084
16	KENNETH F. DONAR	6713 Gentle Harbor St.
		North Las Vegas, NV 89084
17	THERESA ELKINS	6547 Mammoth Canyon Place
		North Las Vegas, NV 89084
18	JOHN A. EUBANKS	506 Regal Robin Way
		North Las Vegas, NV 89084
19	MIKE EVANS	518 Regal Robin Way
20	PIETA FORD	North Las Vegas, NV 89084
21	JOHNNIE P. FARR	6653 Maple Mesa St.
		North Las Vegas, NV 89084
22	SHAWN FARVER	6726 Cinnabar Coast Lane
		North Las Vegas, NV 89084
23	EDGAR DEAN GIBSON	6784 Cinnabar Coast Lane
24	ANN MARIE GIBSON	North Las Vegas, NV 89084
25	JENNIFER L. GUTH	534 Regal Robin Way
		North Las Vegas, NV 89084
26	BILL HINES	418 River Glide Ave.
		North Las Vegas, NV 89084
27	GEORGE HOBBS	316 Horse Pointe Ave.
28	DONNA HOBBS	North Las Vegas, NV 89084
29	MICHAEL HUMPHREY	6666 Montezuma Castle Lane
30	LORI A. HUMPHREY	North Las Vegas, NV 89084
31	LARRY LYNN KINGERY	6745 Montezuma Castle Lane
		North Las Vegas, NV 89084
32	LENA HORVI	335 River Glider Ave.
33	SVEN HORVI	North Las Vegas, NV 89084
34	KENNETH P. KLEIN	340 Harbor Gulf Court
35	MARY BETH KLEIN	North Las Vegas, NV 89084
36	CYNTHIA L. HALL	6749 Petrified Forest St.
		North Las Vegas, NV 89084
37	HARRY HIMMENGER	331 River Glider Ave.
		North Las Vegas, NV 89084
38	BLANCHE KIMMEL	717 Regal Robin Way
	<u> </u>	North Las Vegas, NV 89084

39	SHERI R. LYNN	6637 Maple Mesa St.
	CIT DEPOS : 4.22 - 2.22	North Las Vegas, NV 89084
40	GILBERT A. MADDOCK	6738 Petrified Forest St.
4.4	CIT TUTO II & CA PARTIE	North Las Vegas, NV 89084
41	GILBERT MADRID	603 Regal Robin Way
42	JILL MADRID	North Las Vegas, NV 89084
43	FIDELIS C. MADU	6713 Petrified Forest St. North Las Vegas, NV 89084
44	TERRENCE E. MCCLURE, JR.	637 Painted Opus Place
45	ANNA MCCLURE	North Las Vegas, NV 89084
46	JON MCGILL	356 Regal Robin Way
47	MARY MCGILL	North Las Vegas, NV 89084
48	LARRY D. MILES	415 Regal Robin Way
49	NOREEN M. MILES	North Las Vegas, NV 89084
50	NOEL MILLAN	6615 Petrified Forest St.
51	STACI MILLAN	North Las Vegas, NV 89084
52	RANDALL D. MILLER	341 Regal Robin Way
53	DAWN M. MILLER	North Las Vegas, NV 89084
54	ALAN MUNCIL	324 Horse Pointe Aye.
55	JANET MUNCIL	North Las Vegas, NV 89084
56	ELENA NORINA	633 Lava Beds Way
		North Las Vegas, NV 89084
57	JOHN C. O'SHEA	517 Regal Robin Way
		North Las Vegas, NV 89084
58	FREDDIE M. PITTMAN	6655 Majestic Pearl Place
		North Las Vegas, NV 89084
59	CHARLES RAIMONDA	6630 Cinnabar Coast Lane
	TATABLE CONTRACT	North Las Vegas, NV 89084
60	DENNIS G. RAINES MARIA L. RAINES	6770 Cinnabar Coast Lane
61		North Las Vegas, NV 89084
62	MARGARITA RAMOS	324 Harbor Gulf Court
63	MARK RICHTER	North Las Vegas, NV 89084
0.5	MARK RICHIER	6737 Montezuma Castle Lane
64	PAUL SCHMITT	North Las Vegas, NV 89084 6563 Mammoth Canyon Place
65	BARBARA SCHMITT	North Las Vegas, NV 89084
66	KRISTINA M. SIMMONS	6651 Majestic Pearl Place
	TOTAL TATAS TATA DITATIATORIAN	North Las Vegas, NV 89084
67	JOVITO C. VALLE	6617 Maple Mesa St.
68	ERLINDA B. VALLE	North Las Vegas, NV 89084
69	JOHNNY VELAZQUEZ	611 Regal Robin Way
		North Las Vegas, NV 89084
.70	LAURA VENTER	6746 Petrified Forest St.
		North Las Vegas, NV 89084
71	STEVEN C. WADLOW	6634 Cinnabar Coast Lane
72	SUSAN L. WADLOW	North Las Vegas, NV 89084
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73	RONALD L. WARNER	510 Regal Robin Way
		North Las Vegas, NV 89084
74	DAVID C. WEST	336 Harbor Gulf Court
		North Las Vegas, NV 89084
75	DESTREE WYLIE	427 Regal Robin Way
		North Las Vegas, NV 89084
76	ALFONSO ZAYAS	6737 Petrified Forest Street
		North Las Vegas, NV 89084
77	CHRIS CAMPBELL	6620 Petrified Forest St.
		North Las Vegas, NV 89084
78	MARIA LAMBERT	312 Horse Pointe Ave.
'`		North Las Vegas, NV 89084
79	ROBERT P. PADGETT	6609 Mammoth Canyon Pl.
80	PREEYAR PADGETT	North Las Vegas, NV 89084
81	DIANN MARCELLA	6652 Majestic Pearl Pl.
91	DIAMIN MARCISLIA	North Las Vegas, NV 89084
02	EBEDEDICK M. CEODGE	
82	FREDERICK M. GEORGE	6539 Mammoth Canyon Pl.
83	CATHY J. GEORGE	North Las Vegas, NV 89084
84	SHARON GOODIE	630 Regal Robin Way
		North Las Vegas, NV 89084
85	DEBRA BROWN	328 River Glider Ave.
		North Las Vegas, NV 89084
86	LELANI MATEO	6672 Majestic Pearl Place
87	GERALD M. MATEO	North Las Vegas, NV 89084
88	JILL BOOKER	626 Regal Robin Way
89	CRAIG BOOKER	North Las Vegas, NV 89084
90	TIMOTHY MILLER	6702 Cinnabar Coast Lane
91	KERRI MILLER	North Las Vegas, NV 89084
92	JAIME V. VALDEZ	6718 Montezuma Castle Lane
93	C. MARIE VALDEZ	North Las Vegas, NV 89084
94	SHANNON MUNSELL	422 River Glider
		North Las Vegas, NV 89084
95	YVONNE BECKETT	6659 Majestic Pearl Place
		North Las Vegas, NV 89084
96	EULAE BLACKWELL	615 Regal Robin Way
	***	North Las Vegas, NV 89084
97	RICHARD TYSON	622 Regal Robin Way
98	LUCILLE TYSON	North Las Vegas, NV 89084
99	JOSEPH MONTGOMERY	347 River Glider Ave.
100	ELENA MONTGOMERY	North Las Vegas, NV 89084
101	BARRY CARPENTER	6702 Gentle Harbor St.
102	BABETTE CARPENTER	North Las Vegas, NV 89084
102	LIONEL RAPOSA	618 Lava Beds Way
105	PIONEE IVER OBER	North Las Vegas, NV 89084
104	ANNIMADIRITACIONY	6738 Gentle Harbor St.
104	ANN MARIE LACROIX	L L
L		North Las Vegas, NV 89084

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107	•			, -
107				
108 DIANE M. COLLINS 602 Regal Robin Way North Las Vegas, NV 89084 109 STEVE CALIENDO 427 River Glider Avenue North Las Vegas, NV 89084 110 ANTONIO J. HERRERA 6620 Montezuma Castle Ln. North Las Vegas, NV 89084 111 GLORIA DAVIS 327 Harbor Gulf Ct. North Las Vegas, NV 89084 112 THOMAS J. DEMARCHIS 6647 Montezuma Castel Ln. North Las Vegas, NV 89084 113 JAMES R.BICHLER 630 Lava Beds Way North Las Vegas, NV 89084 114 SHAWN ARRUTI 617 Painted Opus Place Giner Arruti North Las Vegas, NV 89084 115 GILBERT BELTRAN 6623 Petrified Forest St. North Las Vegas, NV 89084 116 TYREE GLASPER, JR. 6623 Petrified Forest St. North Las Vegas, NV 89084 117 GILBERT BELTRAN 526 Regal Robin Way North Las Vegas, NV 89084 118 HECTOR CINTRON 6748 North Las Vegas, NV 89084 119 AMAE J.S.M. CINTRON 649 Maple Mesa St. North Las Vegas, NV 89084 120 KENNETH C. LAUB 649 Maple Mesa St. North Las Vegas, NV 89084 121 PATRICIA GILDEA 6619 Montezuma Castle Ln. North Las Vegas, NV 89084 122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way North Las Vegas, NV 89084 126 SHEENA M.WASHINGTON 713 Regal Robin Way North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 120 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 120 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 120 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 120 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 121 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 122 GREG DEROS		107	ARTEMIO SANABRIA	I
110		108	DIANE M. COLLINS	602 Regal Robin Way
110		109	STEVE CALIENDO	427 River Glider Avenue
111 GLORIA DAVIS 327 Harbor Gulf Ct. North Las Vegas, NV 89084 112 THOMAS J. DEMARCHIS 6647 Montezuma Castle Ln. North Las Vegas, NV 89084 113 JAMES R.BICHLER 630 Lava Beds Way North Las Vegas, NV 89084 114 SHAWN ARRUTI 617 Painted Opus Place North Las Vegas, NV 89084 115 GINER ARRUTI 6623 Petrified Forest St. North Las Vegas, NV 89084 116 TYREE GLASPER, JR. 6623 Petrified Forest St. North Las Vegas, NV 89084 117 GILBERT BELTRAN 526 Regal Robin Way North Las Vegas, NV 89084 118 HECTOR CINTRON 6748 North Las Vegas, NV 89084 119 AMAE J.S.M. CINTRON Maple Mesa St. North Las Vegas, NV 89084 120 KENNETH C. LAUB 649 Maple Mesa St. North Las Vegas, NV 89084 533 Lava Beds Way North Las Vegas, NV 89084 6546 Cimabar Coast Ln. North Las Vegas, NV 89084 6546 Cimabar Coast Ln. North Las Vegas, NV 89084 6549 Montezuma Castle Ln. North Las Vegas, NV 89084 6619 Montezuma Castle Ln. North Las Vegas, NV 89084 122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way North Las Vegas, NV 89084 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA North Las Vegas, NV 89084 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 160 BRAD BIRD 6722 Montezuma Castle Ln. North Las Vegas, NV 89084 161 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 161 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 161 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 161 GREG DEROSA 6610 Cinnabar Coast Ln. North Las Vegas, NV 89084 6722 Montezuma Castle Ln. North Las Vegas, NV 89084 6722 Montezuma Cas		110	ANTONIO J. HERRERA	6620 Montezuma Castle Ln.
112		111	GLORIA DAVIS	327 Harbor Gulf Ct.
113		112	THOMAS J. DEMARCHIS	6647 Montezuma Castle Ln.
114		113	JAMES R.BICHLER	
115 GINER ARRUTI North Las Vegas, NV 89084 116		114	SUAWN ADDITT	North Las Vegas, NV 89084
116		l l	.	
117 GILBERT BELTRAN 526 Regal Robin Way North Las Vegas, NV 89084 118				6623 Petrified Forest St.
118		117	GILBERT BELTRAN	526 Regal Robin Way
119	11	110	TITATIAN	
120 KENNETH C. LAUB 649 Maple Mesa St. North Las Vegas, NV 89084 533 Lava Beds Way North Las Vegas, NV 89084 6546 Cinnabar Coast Ln. North Las Vegas, NV 89084 6546 Cinnabar Coast Ln. North Las Vegas, NV 89084 121 PATRICIA GILDEA 6619 Montezuma Castle Ln. North Las Vegas, NV 89084 122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.			1	_ ·
North Las Vegas, NV 89084 533 Lava Beds Way North Las Vegas, NV 89084 6546 Cinnabar Coast Ln. North Las Vegas, NV 89084 6546 Cinnabar Coast Ln. North Las Vegas, NV 89084 121 PATRICIA GILDEA 6619 Montezuma Castle Ln. North Las Vegas, NV 89084 122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.				
North Las Vegas, NV 89084 6546 Cinnabar Coast Ln.		120	KENNETH C. LAUB	North Las Vegas, NV 89084
North Las Vegas, NV 89084 121 PATRICIA GILDEA 6619 Montezuma Castle Ln. North Las Vegas, NV 89084 122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 126 SHEENA M.WASHINGTON 127 KEITH A. KAWANA 128 MIRTHA C. KAWANA 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.				
121 PATRICIA GILDEA 6619 Montezuma Castle Ln. North Las Vegas, NV 89084 122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 126 SHEENA M.WASHINGTON 126 SHEENA M.WASHINGTON 127 KEITH A. KAWANA 128 MIRTHA C. KAWANA 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.				1
122 BERNARD J. IWASCZYSZYN 6717 Gentle Harbor St. North Las Vegas, NV 89084 123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.		121	PATRICIA GILDEA	6619 Montezuma Castle Ln.
123 JEFFREY AMICO 6606 Cinnabar Coast Ln. North Las Vegas, NV 89084 124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 6722 Montezuma Castle Ln.		122	BERNARD J. IWASCZYSZYN	6717 Gentle Harbor St.
124 PEDRO GRANDE 320 Horse Pointe Ave. North Las Vegas, NV 89084 North Las Vegas, NV 89084 125 JERRY WASHINGTON 713 Regal Robin Way 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.		123	JEFFREY AMICO	6606 Cinnabar Coast Ln.
125 JERRY WASHINGTON 713 Regal Robin Way 126 SHEENA M.WASHINGTON North Las Vegas, NV 89084 127 KEITH A. KAWANA 606 Lava Beds Way 128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.		124	PEDRO GRANDE	
126		12.5	JERRY WASHINGTON	
128 MIRTHA C. KAWANA North Las Vegas, NV 89084 129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.		126	SHEENA M.WASHINGTON	North Las Vegas, NV 89084
129 GREG DEROSA 6610 Cinnabar Coast North Las Vegas, NV 89084 130 BRAD BIRD 6722 Montezuma Castle Ln.		L L		
130 BRAD BIRD 6722 Montezuma Castle Ln.				6610 Cinnabar Coast
		t t	i i	6722 Montezuma Castle Ln.
[131 ALLISON BIRD North Las Vegas, NV 89084		131	ALLISON BIRD	North Las Vegas, NV 89084

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	132	JASON L.UMLAUF	6726 Petrified Forest St.
	133	ROCIO G. BARREDO-	North Las Vegas, NV 89084
		UMLAUF	
	134	JEFF BOYLE	6629 Cinnabar Coast Ln.
			North Las Vegas, NV 89084
	135	BARBARA ULLRICH	521 Lava Beds Way
			North Las Vegas, NV 89084
	136	MAX WASSERMAN	6640 Petrified Forest St.
			North Las Vegas, NV 89084
	137	JAY COHEN	362 Loma Marsh Ct.
			North Las Vegas, NV 89084
	138	GARRISON BALUSEK	434 River Glider Ave.
			North Las Vegas, NV 89084
	139	CHERYL WILLIAMSON	403 River Glider Ave.
			North Las Vegas, NV 89084
	140	MATTHEW SCHUCK	641 Painted Opus Pl.
	141	MICHELLE SCHUCK	North Las Vegas, NV 89084
	142	MATTHEW TOLLESON	443 River Glider Ave.
ĺ	143	LORITOLLESON	North Las Vegas, NV 89084
	144	RENEE JOHNSON	410 Horse Pointe Ave.
			North Las Vegas, NV 89084
	145	THOMAS ANDERSON	6730 Petrified Forest St.
			North Las Vegas, NV 89084
	146	GLENN MILLER	332 Horse Pointe Ave.
ŀ			North Las Vegas, NV 89084
	147	ANDREA CONNOLLY	6639 Majestic Pearl Pl.
	148	MICHAEL VICIOUS	North Las Vegas, NV 89084
	149	SAADIA JONES	6740 Maple Mesa St.
ļ			North Las Vegas, NV 89084
	150	CHRISTINE MCCAULEY	6735 Maple Mesa St.
			North Las Vegas, NV 89084
	151	JAMES LEO RUGGER	6721 Maple Mesa St.
	152	PAMELA J. WINEGART	North Las Vegas, NV 89084
	153	AUNDRIA PINKNEY	6621 Maple Mesa St.
			North Las Vegas, NV 89084
	154	SHAWNA COOPER	319 Harbor Gulf Ct.
			North Las Vegas, NV 89084
	155	PAUL J. GUNNER	625 Painted Opus Pl.
	156	TOK N. GUNNER	North Las Vegas, NV 89084
	157	JAMES K. HARDEMAN	438 River Glider Ave.
			North Las Vegas, NV 89084
	158	SALVADOR LOZANO	529 Regal Robin Way
			North Las Vegas, NV 89084
]	159	JARROD BRADEMAN	332 Harbor Gulf Ct.
			North Las Vegas, NV 89084
	160	JEROME GRETKA	622 Painted Opus Pl.

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161	PATRICIA GRETKA	North Las Vegas, NV 89084
162	KENT A. ANDRADE	447 River Glider Ave.
		North Las Vegas, NV 89084
163	BRYAN ADAMS	406 Horse Pointe Ave.
164	SHERYL ADAMS	North Las Vegas, NV 89084
165	JASON DRAGO	6633 Maple Mesa
		North Las Vegas, NV 89084

COMPLAINT FOR DAMAGES

Come Now Plaintiffs,

PLAINTIFF	ADDRESS
JOSE H. GARCIA	6745 Petrified Forest St.
	North Las Vegas, NV 89084
DAVID DOVE	6743 Maple Mesa St.
LAURIE DOVE	North Las Vegas, NV 89084
SANDRA D. JARVIS	423 Regal Robin Way
	North Las Vegas, NV 89084
RONALD O. KIRK	323 Horse Pointe Ave.
	North Las Vegas, NV 89084
JENELLE BEASON	336 Horse Pointe Ave.
	North Las Vegas, NV 89084
CHRIS BRUNDEGE	6543 Mammoth Canyon Place
VALERIE BRUNDEGE	North Las Vegas, NV 89084
RENOR CABUAL	352 Regal Robin Way
1	North Las Vegas, NV 89084
JOSEPH CERVANTES	6716 Maple Mesa St.
ROSEMARIE CERVANTES	North Las Vegas, NV 89084
LEONARD FLORES	6750 Cinnabar Coast Lane
TRACY HALLAWAY	North Las Vegas, NV 89084
WILHELMUS GOLLER	349 Regal Robin Way
MARIA GOLLER	North Las Vegas, NV 89084
SHAUNTELE HARLESS	308 Horse Pointe Ave.
	North Las Vegas, NV 89084
WENDY M. JIMENEZ	6641 Maple Mesa St.
	North Las Vegas, NV 89084
CATHERINE KELLEY	502 Regal Robin Way
	North Las Vegas, NV 89084
ARISTIDES LIRIANO	645 Painted Opus Place
IRELLA LIRIANO	North Las Vegas, NV 89084
JENNIFER ROLLS	512 Lava Beds Way
TOMMY ROLLS	North Las Vegas, NV 89084
TEODOSO RUELAS	626 Lava Beds Way
FRANCISCA RUELAS	North Las Vegas, NV 89084

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	GARY D. SHARPE	6631 Petrified Forest St.
	*	North Las Vegas, NV 89084
	MARIE F. SMITH	6747 Maple Mesa St.
		North Las Vegas, NV 89084
	MICHAEL W. SMUTZ	6714 Montezuma Castle Lane
		North Las Vegas, NV 89084
	RONALD L. TURNER	6634 Montezuma Castle Lane
	TOTAL DE LA TOTAL DE	North Las Vegas, NV 89084
	WESLEY C. WRIGHT	522 Regal Robin Way
	WEDERET C. WIGGIII	North Las Vegas, NV 89084
11	NATHAN ARMSTRONG	6668 Majestic Pearl Place
	· · · · · · · · · · · · · · · · · · ·	
	MONICA ARMSTRONG	North Las Vegas, NV 89084
	JOSE A. ARROYO-LAYANDO	358 Loma Marsh Court
	PRISCILLA L. ARROYO	North Las Vegas, NV 89084
	MAE RUTH BYRD	6638 Cinnabar Coast Lane
		North Las Vegas, NV 89084
	HAROLD CALHOUN	721 Regal Robin Way
	PEGGY W. CALHOUN	North Las Vegas, NV 89084
	RICHARD CHERCHIO	422 Horse Pointe Ave.
	GLORIA CHERCHIO	North Las Vegas, NV 89084
		417 Horse Pointe Ave.
		North Las Vegas, NV 89084
		413 Horse Pointe Ave.
		North Las Vegas, NV 89084
	HITOMI CONREY	621 Painted Opus Place
	STEVE SHIELDS	North Las Vegas, NV 89084
	RICHARD S. DAUM	435 Regal Robin Way
	MARGARET J. DAUM	North Las Vegas, NV 89084
	KYLE DAVIS	6722 Gentle Harbor St.
	REBEKAH DAVIS	North Las Vegas, NV 89084
	KENNETH F. DONAR	6713 Gentle Harbor St.
`		North Las Vegas, NV 89084
]]	THERESA ELKINS	6547 Mammoth Canyon Place
	TILLACION DELICATO	North Las Vegas, NV 89084
]	JOHN A. EUBANKS	506 Regal Robin Way
	JOHN M. EODMINES	
	BATTATI YSTA ARCI	North Las Vegas, NV 89084
	MIKE EVANS	518 Regal Robin Way
	PIETA FORD	North Las Vegas, NV 89084
	JOHNNIE P. FARR	6653 Maple Mesa St.
		North Las Vegas, NV 89084
	SHAWN FARVER	6726 Cinnabar Coast Lane
		North Las Vegas, NV 89084
	EDGAR DEAN GIBSON	6784 Cinnabar Coast Lane
	ANN MARIE GIBSON	North Las Vegas, NV 89084
11	JENNIFER L. GUTH	534 Regal Robin Way
11	Ī	North Las Vegas, NV 89084

	BILL HINES	418 River Glide Ave.
		North Las Vegas, NV 89084
	GEORGE HOBBS	316 Horse Pointe Ave.
	DONNA HOBBS	North Las Vegas, NV 89084
	MICHAEL HUMPHREY	6666 Montezuma Castle Lane
	LORI A. HUMPHREY	North Las Vegas, NV 89084
	LARRY LYNN KINGERY	6745 Montezuma Castle Lane
		North Las Vegas, NV 89084
	LENA HORVI	335 River Glider Ave.
	SVEN HORVI	North Las Vegas, NV 89084
	KENNETH P. KLEIN	340 Harbor Gulf Court
	MARY BETH KLEIN	North Las Vegas, NV 89084
	CYNTHIA L. HALL	6749 Petrified Forest St.
		North Las Vegas, NV 89084
	HARRY HIMMENGER	331 River Glider Ave.
		North Las Vegas, NV 89084
	BLANCHE KIMMEL	717 Regal Robin Way
		North Las Vegas, NV 89084
	SHERI R. LYNN	6637 Maple Mesa St.
		North Las Vegas, NV 89084
	GILBERT A. MADDOCK	6738 Petrified Forest St.
		North Las Vegas, NV 89084
	GILBERT MADRID	603 Regal Robin Way
	JILL MADRID	North Las Vegas, NV 89084
	FIDELIS C. MADU	6713 Petrified Forest St.
		North Las Vegas, NV 89084
	TERRENCE E. MCCLURE JR.	637 Painted Opus Place
	ANNA MCCLURE	North Las Vegas, NV 89084
	JON MCGILL	356 Regal Robin Way
	MARY MCGILL	North Las Vegas, NV 89084
	LARRY D. MILES	415 Regal Robin Way
	NOREEN M. MILES	North Las Vegas, NV 89084
	NOEL MILLAN	6615 Petrified Forest St.
	STACI MILLAN	North Las Vegas, NV 89084
	RANDALL D. MILLER	341 Regal Robin Way
	DAWN M. MILLER	North Las Vegas, NV 89084
	ALAN MUNCIL	324 Horse Pointe Ave.
	JANET MUNCIL	North Las Vegas, NV 89084
	ELENA NORINA	633 Lava Beds Way
	,	North Las Vegas, NV 89084
	JOHN C. O'SHEA	517 Regal Robin Way
		North Las Vegas, NV 89084
	FREDDIE M. PITTMAN	6655 Majestic Pearl Place
		North Las Vegas, NV 89084
	CHARLES RAIMONDA	6630 Cinnabar Coast Lane
		North Las Vegas, NV 89084
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DENNIS G. RAINES	6770 Cinnabar Coast Lane
MARIA L. RAINES	North Las Vegas, NV 89084
MARGARITA RAMOS	324 Harbor Gulf Court
	North Las Vegas, NV 89084
MARK RICHTER	6737 Montezuma Castle Lane
	North Las Vegas, NV 89084
PAUL SCHMITT	6563 Mammoth Canyon Place
BARBARA SCHMITT	North Las Vegas, NV 89084
KRISTINA M. SIMMONS	6651 Majestic Pearl Place
	North Las Vegas, NV 89084
JOVITO C. VALLE	6617 Maple Mesa St.
ERLINDA B. VALLE	North Las Vegas, NV 89084
JOHNNY VELAZQUEZ	611 Regal Robin Way
	North Las Vegas, NV 89084
LAURA VENTER	6746 Petrified Forest St.
	North Las Vegas, NV 89084
STEVEN C. WADLOW	6634 Cinnabar Coast Lane
SUSAN L. WADLOW	North Las Vegas, NV 89084
RONALD L. WARNER	510 Regal Robin Way
	North Las Vegas, NV 89084
DAVID C, WEST	336 Harbor Gulf Court
INTERIOR WINDS	North Las Vegas, NV 89084
DESIREE WYLIE	427 Regal Robin Way
DESTRUCT WILLIAM	North Las Vegas, NV 89084
ALFONSO ZAYAS	6737 Petrified Forest Street
HER OTIOG ENTING	North Las Vegas, NV 89084
CHRIS CAMPBELL	6620 Petrified Forest St.
Cindo Crivil BEED	North Las Vegas, NV 89084
MARIA LAMBERT	312 Horse Pointe Ave.
WENKING DENVIOLEN	North Las Vegas, NV 89084
ROBERT P. PADGETT	6609 Mammoth Canyon Pl.
PREEYAR PADGETT	North Las Vegas, NV 89084
DIANN MARCELLA	6652 Majestic Pearl Pl.
LARMA (INCLINATION)	North Las Vegas, NV 89084
FREDERICK M. GEORGE	6539 Mammoth Canyon Pl.
CATHY J. GEORGE	North Las Vegas, NV 89084
SHARON GOODIE	630 Regal Robin Way
BIMON GOODIE	North Las Vegas, NV 89084
DEBRA BROWN	328 River Glider Ave.
DEDKA DRUWN	North Las Vegas, NV 89084
LELANI MATEO	6672 Majestic Pearl Place
GERALD M. MATEO	North Las Vegas, NV 89084
JILL BOOKER	626 Regal Robin Way
CRAIG BOOKER TIMOTHY MILLER	North Las Vegas, NV 89084 6702 Cinnabar Coast Lane
KERRI MILLER	North Las Vegas, NV 89084

	JAIME V. VALDEZ	6718 Montezuma Castle Lane
	C. MARIE VALDEZ	North Las Vegas, NV 89084
	SHANNON MUNSELL	422 River Glider
		North Las Vegas, NV 89084
	YVONNE BECKETT	6659 Majestic Pearl Place
		North Las Vegas, NV 89084
	EULAE BLACKWELL	615 Regal Robin Way
		North Las Vegas, NV 89084
	RICHARD TYSON	622 Regal Robin Way
	LUCILLE TYSON	North Las Vegas, NV 89084
	JOSEPH MONTGOMERY	347 River Glider Ave.
	ELENA MONTGOMERY	North Las Vegas, NV 89084
	BARRY CARPENTER	6702 Gentle Harbor St.
	BABETTE CARPENTER	North Las Vegas, NV 89084
	LIONEL RAPOSA	618 Lava Beds Way
9		North Las Vegas, NV 89084
	ANN MARIE LACROIX	6738 Gentle Harbor St.
1	70 m	North Las Vegas, NV 89084
	NELSON DIXON	619 Regal Robin Way
	CHERYL D. DIXON	North Las Vegas, NV 89084
	ARTEMIO SANABRIA	6762 Cinnabar Coast Ln.
		North Las Vegas, NV 89084
	DIANE M. COLLINS	602 Regal Robin Way
		North Las Vegas, NV 89084
	STEVE CALIENDO	427 River Glider Avenue
		North Las Vegas, NV 89084
	ANTONIO J. HERRERA	6620 Montezuma Castle Ln.
	1111101110	North Las Vegas, NV 89084
	GLORIA DAVIS	327 Harbor Gulf Ct.
	GEORGE PATALO	North Las Vegas, NV 89084
	THOMAS J. DEMARCHIS	6647 Montezuma Castle Ln.
	THOMES 3, DEATH INCHES	North Las Vegas, NV 89084
	JAMES R.BICHLER	630 Lava Beds Way
	JANES K.DICITIAN	North Las Vegas, NV 89084
	SHAWN ARRUTI	617 Painted Opus Place
	GINER ARRUTI	North Las Vegas, NV 89084
	TYREE GLASPER, JR.	6623 Petrified Forest St.
	TIRE CLASTER, JR.	North Las Vegas, NV 89084
	CHI DEDT DEI TO ANI	526 Regal Robin Way
	GILBERT BELTRAN	North Las Vegas, NV 89084
	TENCENCE OF IGHT OF I	
	HECTOR CINTRON	6748 North Las Vegas, NV 89084
	AMAE J.S.M. CINTRON	Maple Mesa St.
	KENNETH C. LAUB	649 Maple Mesa St.
		North Las Vegas, NV 89084
	•	533 Lava Beds Way
		North Las Vegas, NV 89084

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*	6546 Cinnabar Coast Ln.
	North Las Vegas, NV 89084
PATRICIA GILDEA	6619 Montezuma Castle Ln.
	North Las Vegas, NV 89084
BERNARD J. IWASCZYSZYN	6717 Gentle Harbor St.
	North Las Vegas, NV 89084
JEFFREY AMICO	6606 Cinnabar Coast Ln.
	North Las Vegas, NV 89084
PEDRO GRANDE	320 Horse Pointe Ave.
	North Las Vegas, NV 89084
JERRY WASHINGTON	713 Regal Robin Way
SHEENA M. WASHINGTON	North Las Vegas, NV 89084
KEITH A. KAWANA	606 Lava Beds Way
MIRTHA C. KAWANA	North Las Vegas, NV 89084
GREG DEROSA	6610 Cinnabar Coast
GREG DEROSA	•
	North Las Vegas, NV 89084
BRAD BIRD	6722 Montezuma Castle Ln.
ALLISON BIRD	North Las Vegas, NV 89084
JASON L.UMLAUF	6726 Petrified Forest St.
ROCIO G. BARREDO-UMLAUF	North Las Vegas, NV 89084
JEFF BOYLE	6629 Cinnabar Coast Ln.
The state of the s	North Las Vegas, NV 89084
BARBARA ULLRICH	521 Lava Beds Way
	North Las Vegas, NV 89084
MAX WASSERMAN	6640 Petrified Forest St.
	North Las Vegas, NV 89084
JAY COHEN	362 Loma Marsh Ct.
	North Las Vegas, NV 89084
GARRISON BALUSEK	434 River Glider Ave.
	North Las Vegas, NV 89084
CHERYL WILLIAMSON	403 River Glider Avc.
•	North Las Vegas, NV 89084
MATTHEW SCHUCK	641 Painted Opus Pl.
MICHELLE SCHUCK	North Las Vegas, NV 89084
MATTHEW TOLLESON	443 River Glider Ave.
LORI TOLLESON	North Las Vegas, NV 89084
RENEE JOHNSON	410 Horse Pointe Ave.
	North Las Vegas, NV 89084
THOMAS ANDERSON	6730 Petrified Forest St.
in amount and all the formed the bold t	North Las Vegas, NV 89084
GLENN MILLER	332 Horse Pointe Ave.
Certification of the state of t	North Las Vegas, NV 89084
ANDREA CONNOLLY	6639 Majestic Pearl Pl.
MICHAEL VICIOUS	North Las Vegas, NV 89084
SAADIA JONES	6740 Maple Mesa St.
DURING WIND	North Las Vegas, NV 89084
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CHRISTINE MCCAULEY	6735 Maple Mesa St.
	North Las Vegas, NV 89084
JAMES LEO RUGGER	6721 Maple Mesa St.
PAMELA J. WINEGART	North Las Vegas, NV 89084
AUNDRIA PINKNEY	6621 Maple Mesa St.
	North Las Vegas, NV 89084
SHAWNA COOPER	319 Harbor Gulf Ct.
	North Las Vegas, NV 89084
PAUL J. GUNNER	625 Painted Opus Pl.
TOK N. GUNNER	North Las Vegas, NV 89084
JAMES K. HARDEMAN	438 River Glider Ave.
	North Las Vegas, NV 89084
SALVADOR LOZANO	529 Regal Robin Way
	North Las Vegas, NV 89084
JARROD BRADEMAN	332 Harbor Gulf Ct.
	North Las Vegas, NV 89084
JEROME GRETKA	622 Painted Opus Pl.
PATRICIA GRETKA	North Las Vegas, NV 89084
KENT A. ANDRADE	447 River Glider Ave.
	North Las Vegas, NV 89084
BRYAN ADAMS	406 Horse Pointe Ave.
SHERYL ADAMS	North Las Vegas, NV 89084
JASON DRAGO	6633 Maple Mesa
	North Las Vegas, NV 89084

all individually (hereinafter "Plaintiffs"), by and through their attorneys, Duane E. Shinnick, Esq. and Eric Ransavage, Esq., of the law firm of Shinnick, Ryan & Ransavage P.C., and for causes of action against Defendants, and each of them, allege and complain as follows:

GENERAL ALLEGATIONS

1. Plaintiffs are owners of individual residences within the housing development known as THE PARKS in North Las Vegas, Nevada, in the subdivisions of PARKS-UNIT 1, PARKS-UNIT 2, PARKS-UNIT 3, PARKS-UNIT 4 and PARKS-UNIT 5 as recorded with the Clark County Recorder in Plat Book 94, page 25, Plat Book 94, page 27, Plat Book 94, page 34, Plat Book 94, page 35, and Plat Book 94, page 26.

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 Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages suffered by each unit owner as to their separate interests as delineated by law.

- 2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.
- The property and buildings thereupon will hereinafter sometimes be referred to as the "subject property."
 - 4. NOT USED
- 5. The Defendants are identified as follows: Plaintiffs allege that Defendant CENTEX HOMES, a Nevada General Partnership, is authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Clark, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.
- 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the agents, servants and employees of each other and were acting in the course and scope of their agency or employment in doing the acts herein alleged.
- 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does 1 to 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in some manner for the defective and negligent engineering, architecture, construction, supply of improper materials, and inspection of the subject property single family homes, or in some other actionable manner were an integral part of the chain of development, construction and marketing of

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 the subject property single family homes, and that Plaintiffs damages as herein alleged were proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true names and capacities of such defendants are ascertained.

- 8. Defendants Does 1 through 500, inclusive, whether individual, corporate, associate or otherwise are fictitious names of defendants whose true names and capacities, at this time, are unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times herein mentioned each of the defendants sued herein as Does 1 through 500 was the agent, servant and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in the scope of his or her authority as such agent, servant and employee, and with the permission and consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged. At such time as defendants' true names become known to Plaintiff's, Plaintiff's will ask leave of this Court to amend this Complaint to insert said true names and capacities.
- 9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes of limitations that the subject property has and is experiencing defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.

It was the result of the representations by Defendants that they would repair the defects and their conduct in so performing some works of repair, as well their proposals for correcting the defects that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit against said Defendants. By virtue of the fact that Defendants were the developers, contractors and

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 sellers of the subject property and aware of the particular nature of the project, including its design, composition, and component parts, and when said Defendants represented that Defendants would repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in relying on said representations and conduct by said Defendants in permitting them to investigate and repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 11.190.

On numerous occasions Defendants represented to Plaintiffs that the defective systems and materials were not inadequate, and that repairs had been successfully performed thereby inducing reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore, Defendants are estopped from asserting any potentially applicable statutes of limitations. Damage has also occurred at various times in the past, including progressive damage.

10. Within the last year, Plaintiffs have discovered that the subject property has and is experiencing additional defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.

FIRST CAUSE OF ACTION

(Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1 through 400)

- 11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint as though fully set forth herein.
- 12. On or about various dates commencing in 2001, and continuing thereafter in the County of Clark, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered

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 into contracts in writing with Defendants for the purchase from said Defendants of one or more of the units in the subject property.

- 13. At the time of negotiations of said contracts, but before said contracts were executed between the Plaintiffs and/or their predecessors in interest and said Defendants, as an inducement to the Plaintiffs and/or their predecessors in interest to purchase said units, and as a part of the basis of the bargain of the parties that culminated in the making of the contracts, said Defendants expressly warranted to Plaintiffs and/or their predecessors in interest that said units were constructed in conformity with the applicable building codes and the specific codes and regulations of Clark County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.
- 14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of fact, and promises made by Defendants. Plaintiffs, and each of them, have duly performed all the conditions and covenants of said contracts on their part to be performed.
- 15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, to remedy these defects.
- 16. As a direct and proximate result of the breach of the express warranties (written and oral) by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.
- 17. Plaintiffs have suffered damages in an amount not fully known, but believed to be within the jurisdiction of this Court in that they have been and will hereafter be required to perform works of

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repair, restoration, and construction to portions of the structures to prevent further damage and to restore the structures to their proper condition. Plaintiffs will establish the precise amount of such damages at trial, according to proof.

18. Plaintiffs are entitled to all damages set forth at NRS 40.655.

SECOND CAUSE OF ACTION

(Breach of Implied Warranties-Third Party Beneficiary

as against Does 1 through 400)

- 19. Plaintiffs reallege and incorporate by reference paragraphs 1 through 18 of the Complaint as though fully set forth herein.
- 20. Plaintiffs are informed and believe and on that basis allege that Defendants and Doe defendants other than CENTEX HOMES entered into contracts with these entities to perform certain services or work with regard to the design, construction and inspection of construction of the residences at the subject property. Plaintiffs and/or their predecessors in interest were third party beneficiaries of each and every such contract.
- 21. Further, said Doe defendants by entering into said contracts with CENTEX HOMES and/or Plaintiffs and/or their predecessors in interest, impliedly warranted that said homes would be of good and merchantable quality and would be at least a quality as would be fit for the ordinary purpose for which such homes were to be used and would be habitable. Further, said Doe defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.
- 22. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Doe defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.

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23. Certain Plaintiffs and/or Homeowners at the subject property have notified Doe defendants of said breach of implied warranties and said Doe defendants have refused and continue to refuse to remedy these defects.

24. As a direct and proximate result of the breach of the implied warranties by Doe defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship. Numerous additional defective conditions exist as more particularly described in Plaintiffs' expert reports. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, and in accordance with NRS 40.655.

THIRD CAUSE OF ACTION

(Negligence and Negligence per se

As to All Defendants, and Does 1 through 400)

- 25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint as though fully set forth herein.
- 26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the subject structure and subject premises were not properly or adequately designed, engineered, marketed, supervised and/or constructed, that the owners and users would be substantially damaged thereby, and that the subject structures would be defective and not of merchantable quality.
- 27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to exercise ordinary care to avoid reasonably foreseeable injury to users and purchasers of the subject premises and structures, and knew or should have foreseen with reasonable certainty that purchasers and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of

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 them, failed to perform their duty to cause the subject premises and subject structures to be designed, engineered and completed in a proper and workmanlike manner and fashion.

- 28. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and neglected to perform the work, labor and services properly or adequately in that each said Defendants so negligently, carelessly, recklessly and in an unworkmanlike manner designed, constructed and inspected the subject property and performed the aforesaid work, labor and/or services, such that the subject premises and subject structures as described herein were designed, engineered and/or constructed improperly, negligently, carelessly and/or in an unworkmanlike manner, thereby breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the premises were constructed in an unworkmanlike manner.
- 29. Defendants' negligence alleged above includes the failure to meet the applicable building codes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest were members of the class of persons which the building codes and ordinances were designed to protect. Such violations are negligence per se on the part of Defendants, and each of them.
- 30. As a direct and proximate result of the foregoing negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.
 - 31. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

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FOURTH CAUSE OF ACTION

(Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400)

- 32. Plaintiffs reallege and incorporate by reference paragraphs 1 through 31 of the Complaint, as though fully set forth herein.
- 33. All Defendants each impliedly warranted that said homes would be of good and merchantable quality, would be habitable, and would be completed in a workmanlike manner. Further, said Defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.
- 34. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.
- 35. Certain Plaintiffs and/or Homeowners at the subject property have notified Defendants of said breach of implied warranties and said Defendants have refused and continue to refuse to remedy these defects.
- 36. As a direct and proximate result of the breach of the implied warranties by Defendants and each of them as herein above alleged, Plaintiff's suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship. Plaintiff's are presently unaware of the precise amount of damages, but will establish the same at trial according to proof.

1	<u>CERTIFICATE OF SERVICE</u>			
2	STATE OF NEVADA)) ss.			
3	CLARK COUNTY)			
4				
5	I, JESSICA WHITE, declare:			
6	r			
7	I am a resident of and employed in Clark County, Nevada. I am over the age of eighteen years and not a party to the within action. My business address is 2881 Business Park Court, Suite 210, Las			
9	Vegas, NV 89128			
10	On September 8, 2010, I served the documents described as PLAINTIFFS' FIRST AMENDED CONSTRUCTION DEFECT COMPLAINT in Case No. A-10-619729-D on the			
11	following parties: David S. Lee, Esq.			
12	David J. Wedemeyer, Esq.			
13 14	LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE 7575 Vegas Dr., Suite 150 Las Vegas, NV 89128			
15		$\ $		
16	VIA E-SERVICE through the Clark County District Court Electronic Filing Program per Wiznet.			
17 18	VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada. I am			
19	"readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. postal service on that same day with postage fully prepaid at Las Vegas, Nevada in the ordinary course of	ý		
20 21	business.			
22	I declare under penalty of perjury that the foregoing is true and correct.			
23	Tuonia many panany ar panjary and ar			
24	Executed at Las Vegas, Nevada, on September 8, 2010			
25				
26	/s/ Jessica White Jessica White			
27	domina it man			
28				
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Exhibit "1"

SAO 1 DAVID S. LEE, ESQ. 2 Nevada Bar No. 6033 Electronically Filed DAVID J. WEDEMEYER, ESO. 07/20/2010 09:51:35 AM 3 Nevada Bar No.11318 LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE 7575 Vegas Dr., Suite 150 Las Vegas, Nevada 89128 4 5 (702) 880-9750 Fax: (702) 314-1210 diec@lee-lawfirm.com CLERK OF THE COURT б 7 dwedemeyer@lee-lawfirm.com 8 Attorneys for Defendant CENTEX HOMES 9 DISTRICT COURT 10 CLARK COUNTY NEVADA 11 JOSE H. GARCIA, individually; DAVID and LAURIE DOVE, individually; SANDRA D. JARVIS, individually; RONALD O. KIRK, individually; JANELLE BEASON, individually; CHRIS & VALERIE BRUNDEGE, individually; RENOR CABUAL, individually; JOSEPH and ROSEMARIE CERVANTES, individually; I RONARIE CERVANTES, individually; 12 A-10-616729-D Case No.: Dept. No.: XIX 13 14 STIPULATION AND ORDER TO APPOINT FLOYD HALE, ESQ. AS LEONARD FLORES and TRACY SPECIAL MASTER, FOR HALLAWAY, individually; WILHELMUS and MARIA GOLLER, individually; SHAUNTELE HARLESS, individually; WENDY IIMENEZ, individually; CATHERINE KELLEY, individually; IRELLA LIRIANO, individually; WILLIAM R. RIERSON and NAOMI TABON, 16 DEKENDANT CENTEX HOMES TO REFRAIN FROM FILING ITS MOTION TO STRIKE OR DISMISS, AND TO SET DEADLINE FOR PLAINTIFFS TO FILE AMENDED 17 18 COMPLAINT IDENTIFYING BY will Jain R. RIBRSON and NAOMI TABON, individually; JENNIFER and TOMMY ROLLS, individually; TEODOS and FRANCISCA RUELAS, individually; GARY D. SHARPE, individually; MARIE F. SMITH, individually; MICHAEL W. SMUTZ, individually; RON and KATHI TURNER, individually; WESLEY C. 19 NAME ADDITIONAL HOMEOWNER PLAINTIFFS WITHOUT LEAVE OF COURT AND 20 STRIKE CLASS ACTION 21 **ALLEGATIONS** WRIGHT, individually; and the same on behalf of themselves and on behalf of others similarly 22 23 situated, and ROBS 1-600, inclusive, 24 Plaintiffs. 25 CENTEX HOMES, a Nevada General Partnership; and DOES I through 500, inclusive, 26 27 Defendants. 28

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IT IS HEREBY STIPULATED AND AGREED by and between the parties, CHNTEX HOMES (hereinafter referred to as "Defendant") by and through its counsel of record, the law firm of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE, and Plaintiffs, by and through their counsel of record, SHINNICK, RYAN & RANSAVAGE P.C., that Floyd Hale, Esq. be appointed Special Master for this matter for all purposes, including overseeing the discovery of this matter and the parties compliance with same. Furthermore at this time, Defendant will refrain from filing. without prejudice, its Motion to Dismiss or Strike Class Allegations in Plaintiffs' Complaint. Furthermore, the parties stipulate that Plaintiffs shall have until the 8th day of September, 2010, to either:

- 1. File an Amended Complaint naming additional plaintiffs to this matter and omitting class action allegations, or,
- 2. To File a Motion for Class Certification,

The 8th day of September, 2010, shall be an absolute deadline for adding any new plaintiffs. No additional plaintiffs may be added after the said date. If Plaintiffs do not file a Motion for Class Certification by September 8, 2010, the class allegations shall be deemed stricken from Plaintiffs' Complaint with prejudice,

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1	It is further hereby stipulated by the parties that Defendant reserves any and all of its defenses
2	based on the timeliness of filing of Plaintiffs' claims.
3	DATED this grant day of July, 2010. DATED this day of July, 2010.
4	DATED this // day of July 2010.
5	SHINNICK, RYAN & RANSAVAGE P.C. LEE, HERNANDEZ, BROOKS, GAROFALO & BEZAGE
б	GAROTALO
7	
8	DUANE SHINNICK, ESQ. DAVIDS, LEE, ESQ.
į	Nevada Bar No. 007176 Nevada Bar No. 006033
9	ERIC RANSAVAGE, ESQ. DAVID J. WEDEMEYER, ESQ. Nevada Bar No. 011318
10	2881 Business Park Court, Suite 210 7575 Vegas Dr., Suite 150
11	Las Vegas, NV 89128 Las Vegas, Nevada, 89128
12	·
13	ORDER
14	Based upon the Stipulation of the parties, the Court having reviewed all pleadings and papers
15	on file herein and good cause appearing:
16	IT IS HEREBY ORDERED that this case will be designated complex and Floyd Hale, Esq.
17	shall be appointed as Special Master for this case for all purposes, including oversceing the NRS Chapter
18	40 process and the parties' compliance with the same. Further, at this time, Defendant will refrain from
19	
20	filing its Motion to Dismiss Plaintiffs' Class Action Complaint or Striking the Class Action Allegations.
21	IT IS HEREBY FURTHER ORDERED that Plaintiffs shall have until September 8,
22	2010, to either:
23	1. File an Amended Complaint naming additional Plaintiffs to this matter and omitting class
24	action allegations, or,
25	2. To File a Motion for Class Certification.
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1 The 8th day of September, 2010, shall be an absolute deadline for adding any new Plaintiffs. 2 No additional Plaintiffs may be added after said date. If Plaintiffs do not file a Motion for Class 3 Certification by September 8th, 2010, the class action allegations shall be deemed stricken from 4 Plaintiffs' Complaint with prejudice. 5 IT IS HEREBY FURTHER ORDERED that Defendant shall retain any and all of its defenses 6 based on the timeliness of filing of Plaintiffs' claims. 7 DATED this 19 THAN 8 9 10 11 12 Submitted by: 13 LEE, HERNANDEZ, BROOKS, 14 GAROFALO & BLAKE 15 16 17 DAVID S. LEB, ESQ. Nevada Bar No. 6033 18 DAVID J. WEDEMEYER, ESQ 19 Nevada Bar No. 11318 7575 Vegas Drive, Suite 150 20 . Las Vegas, Nevada 89128 21 Attorneys for Defendant 22 CENTEX HOMES 23 24 25 26 27 28

Exhibit 38

Exhibit 38

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DAVID J. WEDEMRYER, ESQ.
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LEE, HERNANDEZ, BROOKS,
GAROVALO & DLAKE
7575 Vogas Dr., Suita 150
Las Vegas Nevada 89128
(702) 880-9750
Pac (702) 314-1210
dles@lee-lawfirm.com
dwedomgyer@lee-lawfirm.com
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CRNTEX HOMES
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                                                                                                                                                                                                                                                                                                                                                          CLARK COUNTY NEVADA
                                                                                                                              JOSE H. GARCIA, individually: DAVID and LAURII DOVE, individually: SANDRA D. JARVIS, individually: SANDRA D. JARVIS, individually: JANELLE BEASON, individually; CHRIS and VALERIE BRUNDEGE, individually: RINOR CABUAL, individually; JOSEPH and ROSEMARIE CERVANTIIS. Individually: LEONARD FLORES and TRACY HALLAWAY, individually: WILHELMUS and MARIA COLLER, individually: WINDY JIMENEZ, individually: CATHERINE KELLEY, individually: CATHERINE KELLEY, individually: ARISTIDES and RELLLA LIRIANO; individually: TEODOSO and FRANCISCA RUBLAS, individually: GARY D. SHARPE, individually: MARIE I; SMITH, individually: MCHARLE I; SMITH, individually: WINDTZ, individually: WINDZ, individually: WINDZ
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(Page 2 of 22)
(Page 39 of 121)

Individually; JOHNNIB P. FARR, individually; SHAWN FARVER, Individually; EDGAR DEAN GIBSON and ANN MARIE GIRSON, individually; HANNIGER E. GUTH; individually; BILL HIMES, Individually; GEORGE and DONNA HOBBS, individually; MICHARL and LORIA. HUMPHREY individually; LARRY LYNN KINGERY, individually; KIRNNETH P. and MARY BETH KLEIN, individually; CYNTHIA L. HALL, Individually; HARRY HIMMENGIRR, individually; BILL HIMES, Individually; GIBERT and JILL MADRID, Individually; GIBERT and JILL MADRID, Individually; GIBERT and ANDOCK, Individually; GIBERT and MILL MADRID, Individually; GIBERT and MILL MADRID, Individually; GIMBERT and FILL MADRID, Individually; GIMBERT and FILL MADRID, Individually; GIMBERT and STACIBLE, individually; LARRY D. and NORHEN M. MILLS, individually; JON and MARYAMOGILL, Individually; LARRY D. and STACI MILLAN, individually; RANDALL D. and DAWN M. MILLER, individually; ALANY and JANET MUNCIL, individually; RANDALL D. and DAWN M. MILLER, individually; ALANY and JANET MUNCIL, individually; EBHA, individually; GHARLES RAIMONDA, individually; GHARLES RAIMONDA, individually; GHARLES RAIMONDA, individually; GHARLES RAIMONDA, individually; CHARLES RAIMONDA, individually; GHARLES RAIMONDA, individually; GHARLES RAIMONDA, individually; GHARLES RAIMONDA, individually; TREDIBRA SIMMONS, Individually; JOWITO C. ond ERLINDA B. VALLE, Individually; JOWITO C. and ERLINDA B. VALLE, Individually; CRRIS CAMPBELL, Individually; RONALD L. WARNER, individually; RONALD L. WARNER, individually; BRID MARKA LAMBERT, individually; TREDIBRICK M. GEORGII, individually; TREDIBRICK M. GEO individually; LIONEL RAPOSA, individually; ANN MARIE LACROIX, individually; NELSON and CHERYL D. DIXON, individually;

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(Page 3 of 22)
(Page 3 of 22)
 (Page 40
                                                                                                                                                    of
                                                                                                                                                                                                                121)
                                                                                                                                             ARTEMIO SANABRIA, individually; DIANE M.)
COLLINS, individually; STEVE CALIENDO,
individually; ANTONIO J. HERRERA,
individually; GLORIA DAVIS, individually;
THOMAS J. DIEMARCIUS, individually;
JAMES R. BICHLER, individually; SHAWN and
ORNER, ARRITT, Individually; TYREE
GLASPER, JR., individually; GLEBERT
BELTRAN, individually; HECTOR and AMAB
J.S.M. CINTRON, individually; KENNETH C.
LAUB, individually; PATRICIA GILDEA,
individually; BERNARD J. TWASCZYSZYN,
individually; BERNARD J. TWASCZYSZYN,
individually; JERFREY AMICO, individually;
PEDRO GRANDR, individually; JERRY and
SHEINA M. WASHIMOTON, individually;
RETH A. and MIRITHA C. KAWANA,
individually; GREG DEROSA, individually;
BRAD and ALLISON BIRD, individually;
BRAD and ALLISON BIRD, individually;
HARBARA ULLISICH, individually; MAX
WASSERMAN, individually; JAY COMEN,
individually; GARRISON BALUSEK,
individually; GARRISON BALUSEK,
individually; GARRISON BALUSEK,
individually; GARRISON BALUSEK,
individually; GLENN MILLER, individually;
ANDREA CONNOLLY and MICHAEL
VICIOUS, individually; SAADIA JONER,
individually; CHERST, WILLAMSON,
individually; CHERST, INE MCCAULEY,
individually; CHERST, individually;
ANDREA CONNOLLY and MICHAEL
VICIOUS, individually; SAADIA JONER,
individually; CHERST, individually;
ANDREA CONNOLLY and MICHAEL
VICIOUS, individually; BADIA JONER,
individually; CHERST, individually;
ANDREA CONNOLLY and MICHAEL
VICIOUS, individually; RECOLUSY,
individually; JAMES LEO RUGGER and
PAMELA J. WINECART, individually;
ANDREA CONNOLLY and MICHAEL
VICIOUS, individually;
ANDREA CONNOLLY and MICHAEL
VICIOUS, individually;
ANDREA CONNOLLY and MICHAEL
ORDER, individually;
ANDREA CONNOLLY and MICHAEL
ANDREA CONNOLLY ANDREA CONDER,
individually;
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                                                                                                                                                                                                                                                                                                                            Plaintiffs,
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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        CENTEX HOMES, a Novada General
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                                                                                                                                                          Partnership; and DOES I through $00, inclusive,
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                                                                                                                                                                           CHNTHX HOMES, a Novada General
Partnamhlp; and DORS I through 500; inclusive,
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                                                                                                                       HIPB ENTERPRISES, INC., a Nevada
Consocition, CAMPBELL CONCRETE OF
NEVADA, INC., a Nevada Corporation;
VENADA, INC., a Nevada Corporation;
VENADA, INC., a OCENTURY CAST
PRODUCTS, a Utah Corporation; LUKESTAR
CORPORATION dia CHAMPION MASONRY,
a Nevada Corporation; CLASSIC LILECTRIC,
INC., a Novada Corporation; DESERT LUMBER
LLC, a Novada Limited Linbillity Company;
DRYWALL, SYSTEME, INC., a Nevada
Corporation; HEECITTYE PLASTERING, INC.,
a Novada Corporation, BRANDON, LLC dia
FIRST PREMIER DRYWALL & PAINT, a
Nevada Limited Liability Company; GRANTER
WORLD, ITD., a Nevada Limited Liability
Company; KENNINGS ON PLASTERING
INC., a Novada Corporation; LARRY
METHVIN INSTALLATIONS, INC., a
California Corporation; LEGIRND WINDOWS
aba COYOTH SPRINGS WINDOW & DOOR,
LLC, a Nevada Limited Liability Company;
MAGNUM AIR, a Novada Corporation;
MCCONNELL CARINETS, INC., a California
Corporation; MUSTANG TILE OF NEVADA,
INC., a Nevada Carporation; NEVADA
COUNTERTOP CORPORATION, a Nevada
Company; RCR PLUMBING & MECHAMICAL
INC., a California Corporation; S&L ROOFING,
INC., a Colorado Corporation; S&L ROOFING,
INC., a California Corporation; S&L ROOFING,
INC., a Colorado Corporation; S&L ROOFING,
INC., a California Corporation; S&C DESIGN OF
MINVADA, INC., a Nevada Corporation;
SHOWER DOOR, INC., a California
Corporation, ZORS I timough 50 and ZOB
CORPORATIONS, BUSINESS OR
GOVERNMENTAL ENTITIES, 51 through 100,
inclusivo,
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                                                                                                                                                              inclusive.
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                                                                                                                                                                                                                                                                                                                                        Third-Party Defendants.
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27 28 DEFENDANT CENTEX HOMES' ANSWER TO PLAINTEFF, WIRST AMENDED CONSTRUCTION DEFECT COMPLAINT AND DEFENDANT CUNTEX ROMES' TAIRL PARTY COMPLAINT.

COMES NOW Defendants CENTEX HOMES (hereinafter referred to as "CENTEX") by and through its attorneys, LEH, HERNANDEZ, BROOKS, GAROFALO & BLAKE, and hereby answers Plaintiffs' First Amended Construction Defect Complaint ("COMPLAINT") as follows:

GENERÁL ALLEGATIONS

- Answering Paragraphs 2a and 6 of the Complaint, Centex specifically and generally denies each and every allegation contained therein.
- 2. Answering Paragraph 2 of the Complaint, Centex asserts that Paragraph 2 constitutes legal conclusions to which a response is not required. To the extent that Paragraph 2 may be determined to contain factual allegations, Centex denies each and every allegation contained therein.
- 3. Answering Paragraph 1, 7, and 8 of the Complaint, Centex is without sufficient information to form a belief as to the truth or faisity of the allegations contained therein, and therefore, denies the same.
 - Answering Paragraphs 3 and 4 of the Complaint, there is no response required.
- 5. Answering Paragraphs 5, 9, and 10 of the Complaint, Centex admits that Defendant CENTEX HOMES is a Nevada General Partnership authorized to do business in the State of Novada, and has conducted business within the County of Washoe, State of Novada relating to the subject properties. As for any other allegations therein Centex denies generally and specifically.

FIRST CAUSE OF ACTION

(Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1 through 400)

- 6: Answering Paragraph 11 of the Complaint, Centex repeats and realleges its answers to Paragraphs 1 through 10, inclusive, and incorporates the same by reference as though fully set forth herein.
- 7. Answering Paragraph 12 of the Complaint, Centex is without sufficient information to form a belief as to the truth or falsity of the allegations contained therein, and therefore, denies the same.

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- 8. Answering Paragraph 13 of the Complaint, Centex admits that Defendant CENTEX HOMES is a Nevada General Partnership authorized to do business in the State of Nevada, and has conducted business within the County of Washoe, State of Nevada relating to the subject properties and based upon information given the homes were constructed in conformity with the applicable building codes and the specific codes and regulations of Washoe County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.
- 9. Answering Paragraphs 14, 15, 16, 17, and 18 of the Complaint, Centex asserts that Paragraphs 14, 15, 16, 17, and 18 constitute legal conclusions to which a response is not required. To the extent that Paragraphs 14, 15, 16, 17, and 18 may be determined to commin factual allegations, Centex denies each and every allegation contained therein.

SECOND CAUSE OF ACTION

(Breach of Implied Warranties-Third Party Boneficiary as against Does 1 through 400)

- Answering Paragraph, 19 of the Complaint, Centex repeats and realleges its answers to Paragraphs 1 through 18, inclusive, and incorporates the same by reference as though fully set forth herein,
- 11. Answering Paragraphs 20, 22, 23 and 24 or the Complaint, Centex asserts that

 Paragraphs 20, 22, 23 and 24 constitute legal conclusions to which a response is not required. To the
 extent that Paragraphs 20, 22, 23 and 24 may be determined to contain factual allegations, Centex
 denies each and every allegation contained therein.
- 12. Answering Paragraph 21 of the Complaint, Centex admits that Defendant CENTEX FIOMES is a Nevada General Partnership authorized to do business in the State of Nevada, and has conducted business within the County of Washoe, State of Nevada relating to the subject properties and based upon information given the homes were constructed in conformity with the applicable building codes and the specific codes and regulations of Washoe County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.

THIRD CAUSE OF ACTION

(Negligence and Negligence per se As to All Defendants, and Does I through 400)

13. Answering Paragraph 25 of the Complaint, Centex repeats and realleges its answers to

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Paragraphs 1 through 24, inclusive, and incorporates the same by reference as though fully set forth herein.

- 14. Answering Paragraphs 26 and 27 of the Complaint, Centex alleges that the allegations contained therein call for a legal conclusion and on that basis denies the same. To the extent that these paragraphs may be determined to contain factual allegations, Defendant denies each and every allegation contained therein.
- 15. Answering Paragraphs 28, 29, and 30 of the Complaint, Centex specifically and generally donics each and every allegation contained therein.

FOURTH CAUSE OF ACTION

(Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400)

- 16. Answering Paragraph 32 of the Complaint, Centex repeats and realleges its answers to Paragraphs 1 through 31, inclusive, and incorporates the same by reference as though fully set forth herein.
- 17. Answering Paragraphs 33 of the Complaint, Center alleges that the allegations contained therein call for a legal conclusion and on that basis denies the same. To the extent that these paragraphs may be determined to contain factual allegations, Defendant denies each and every allegation contained therein.
- 18. Answering Paragraphs 34, 35, and 36 of the Complaint, Centex specifically and generally denies each and every allogation contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

CENTEX alleges that the COMPLAINT and each and every cause of action stated therein fails to state facts sufficient to constitute a cause of action, or any cause of action, as against CENTEX.

SECOND AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that Plaintiffs' alleged damages, if any, were and are, wholly or partially, contributed or proximately caused by Plaintiffs' recklessness and negligence, thus barring or diminishing Plaintiffs' recovery herein according to principles of

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27 28 comparative negligence.

THIRD AFFIRMATIVE DEFENSE

CENTEX is not legally responsible for the acts and/or omissions of those other Defendants named herein as fictitious Defendants.

FOURTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that if Plaintiffs herein suffered or sustained any loss, injury, damage or detriment, the same was directly and proximately caused and contributed to by the breach of warranty, conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct of the said Plaintiffs, thereby completely or partially burring Plaintiffs' recovery herein.

FIFTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that it is not legally responsible in any fashion with respect to damages and injuries claimed by the Plaintiffs in the COMPLAINT; however, if CENTEX is subjected to any liability to the Plaintiffs or my other Third Party Complainant herein, it will be due, in whole or in part, to the breach of warranty, acts, omissions, activities, carelessness, reoklessness and negligence of others; wherefore, any recovery obtained by Plaintiffs or any Third Party Complainant herein against CENTEX should be reduced in proportion to the respective negligence and fault and legal responsibility of all other parties, persons and entities, their agents, servants and employees who contributed to and/or caused any such injury and/or damages, in accordance with the law of comparative negligence; the liability of CENTEX, if any, is limited in direct proportion to the percentage of fault actually attributed to CENTEX.

SIXTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that at the time and place of the incident alleged in Plaintiffs' COMPLAINT, Plaintiffs knew of and fully understood the danger and risk incident to their undertaking, including but not limited to the construction and/or purchase of real property, but despite such knowledge, they freely and voluntarily assumed and exposed themselves to all risk of harm and the consequential injuries and damages, if any, resulting therefrom.

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SEVENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that the COMPLAINT and each and every cause of action contained therein is barred by the applicable Statutes of Repose.

EIGHTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that as to each alleged cause of action,
Plaintiffs have failed, refused and neglected to take reasonable steps to mitigate their alleged
damages, if any, thus barring or diminishing Plaintiffs' recovery herein.

NINTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that the COMPLAINT and each and every cause of action contained therein is barred by the applicable Statutes of Limitation.

TENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that Plaintiffs unreasonably delayed the filing and subsequent service of the COMPLAINT and the notification of CENTEX of the alleged defects in the subject property, negligence, and the bases for the causes of action alleged against them, all of which has unduly and severely prejudiced CENTEX in its defense of the action, thereby barring or diminishing Plaintiffs' recovery herein under the Doctrine of Estoppel.

ELEVENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that Plaintiffs unreasonably delayed the filing and subsequent service of the COMPLAINT and the notification of CENTEX of the alleged defeots in the subject property, negligence, and the bases for the causes of action alleged against it, all of which has unduly and severely prejudiced CENTEX in its defense of the action, thereby barring or diminishing Plaintiffs' recovery herein under the Doctrine of Walver.

TWELFTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that Plaintiffs unreasonably delayed the filing and subsequent service of the COMPLAINT and the notification of CENTEX of the alleged defects in the subject property, negligence and the bases for the causes of action alleged against it, all of which has unduly and severely prejudiced CENTEX in its defense of the action, thereby barring or diminishing Plaintiffs' recovery herein under the Doctrine of Laches.

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THIRTEENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believe and on that basis alloges that Plaintiffs have failed to join all necessary and indispensable parties to this lawsuit.

FOURTEENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that the injuries and damages of which Plaintiffs complain were proximately caused by, or contributed to, by the acts of other Third-Party Defendants, Cross-Defendants, persons and/or other entities, and that said acts were an intervening and superseding cause of the injuries and damages, if any, of which Plaintiffs complains, third bearing Plaintiffs from any recovery against CENTEX.

FIFTEENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes that Plaintiffs, or other persons or entities other than CENTEX without the knowledge or consent of CENTEX, altered the subject property, and to the extent that Plaintiffs have incurred or suffered any damages, which CENTEX denies, such alleged damages were solely and proximately caused by such alteration.

SIXTEENTH AFFIRMATIVE DEVENSE

The dameges referred to in the COMPLAINT, and each and every purported claim for relief contained therein, were proximately caused or contributed to by the negligence of persons and/or entities other than CENTEX in failing to exercise the proper care which a prudent person under the same or similar circumstances would have exercised, and/or by the wrongful nots of persons and/or entities other than CENTEX, and if CENTEX acted in any manner negligently or wrongfully (which supposition is made only for purposes of this defense, without admitting same to be true), the aforesaid negligence and/or wrongful acts of persons and/or entities other than CENTEX constituted an intervening and superseding cause of the damages alleged in the COMPLAINT.

SEVENTEENTH AFFIRMATIVE DEFENSE

It has been necessary for CENTEX to retain the services of an attorney to defend this aution and it is entitled to a reasonable sum as and for attorneys' fees.

EIGHTEENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that the claims of Plaintiffs are

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reduced, modified and/or barred by the Dootrine of Unolean Hands.

NINETEENTH AFFIRMATIVE DEFENSE

CENTEX is informed and believes and thereon alleges that any and all events, happenings, injuries and damages alleged by Plaintiffs were a direct result of an act of God,

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiffs' has not provided timely notice of warranty claims.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiffs' have failed to comply with Chapters 40 and 116 of the Nevada Revised

Statutes as amended and are therefore barred from and without standing to bring this lawsuit and if
permitted to bring this lawsuit cannot avail themselves to the damage provisions of NRS 40.600 et.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P. 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available for responding party after reasonable inquiry upon the filing of CENTEX's Answer to Plaintiffs' COMPLAINT, and therefore CENTEX reserves the right to amend its Answer to allege additional affirmative defenses, if subsequent investigation so warrants.

CENTEX HOMES THIRD-PARTY COMPLAINT

COME NOW Defendants/Third-Party Plaintiffs CENTEX HOMES (hereinafter collectively referred to as "CENTEX"), by and through their attorneys of record, LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKB, APC and file their Third-Party Complaint against, BFB ENTERPRISES, INC., a Nevada Corporation; CAMPBELL CONCRETE OF NEVADA, INC., a Nevada Corporation; VERMAX, INC. dba CENTURY CAST PRODUCTS, a Utah Corporation; LUKESTAR CORPORATION dba CHAMPION MASONRY, a Nevada Corporation; CHARMAC, INC., a California Corporation; CLASSIC ELECTRIC, INC., a Nevada Corporation; DESERT LUMBER, LLC, a Nevada Limited Liability Company; DRYWALL SYSTEMS, INC., a Nevada Corporation; EXECUTIVE PLASTERING, INC., a Nevada Corporation; ERANDON, LLC dba FIRST PREMIER DRYWALL & PAINT, a Nevada Limited Liability Company; GRANITE

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WORLD, LTD., a Nevada Limited Liability Company; KENNINGTON PLASTERING NEVADA, 2 a Nevada Corporation; LARRY METHVIN INSTALLATIONS, INC., a California Corporation; LEGEND WINDOWS aka COYOTE SPRINGS WINDOW & DOOR, LLC, a Nevada Limited Liability Company; MAGNUM AIR, a Nevada Corporation; MCCONNELL CABINETS, INC., a California Corporation; MUSTANG TILE OF NEVADA, INC., a Nevada Corporation; NEVADA COUNTERTOP CORPORATION, a Nevada Corporation; PREMIER ELECTRIC LLC fixa VITA HUNCTRIC, a Nevada Limited Liability Company; RCR PLUMBING & MECHANICAL, INC., a California Corporation; S&L ROOFING, INC., a Colorado Corporation; S.C. DESIGN OF NEVADA, INC., a Nevada Cotporation; SUMMIT DRYWALL & PAINT, LLC, a Novada Limited Liability Company; WESTERN SHOWER DOOR, INC., a California Corporation, ZOES 1 through 50 and ZOE CORPORATIONS, BUSINESS OR GOVERNMENTAL ENTITIES, 51 through 100, inclusive, (hereinafter collectively referred to as "THIRD-PARTY DEFENDANTS"); complains and alleges the following:

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GENERAL ALLEGATIONS

- At all times relevant herein, THIRD-PARTY DEFENDANTS, and each of them, were entities doing business in the State of Nevada and designed mid/or developed and/or performed construction related work and/or supplied materials for the construction improvements to real property (hereinafter "SUBJECT PROPERTY") which is the subject of and are more throughly described in Plaintiffs' FIRST AMENDED COMPLAINT.
- The THIRD-PARTY DEFENDANTS, and each of them, were subcontractors and/or design professionals who, developed, designed, performed construction activities or provided materials and/or other items which were installed into and/or became a part of said subject properties.
- CENTEX is informed and believes, and thereon alleges, that the true names and capacities, whether individual, corporate, associate or otherwise of DOES I through 500 are unknown to CENTEX who therefore sues said THIRD-PARTY DEFENDANTS by said fictitious names. THIRD-PARTY DEITENDANTS designated as DOES 1 through 500 as being responsible in

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some manner as an entity developing, designing, performing construction related activities and/or providing materials for construction of the subject properties and are responsible for the events and happenings described in Plaintiffs' FIRST AMENDED COMPLAINT, and in this Third-Party Complaint which proximately caused damages to CENTEX as alleged herein. CENTEX is informed and believes that each of the THIRD-PARTY DEFENDANTS designated as DOE in some manner developed, performed work, installed, designed, constructed or supplied materials to the subject properties, pursuant to agreements between CENTEX and THIRD-PARTY DEFENDANTS and each of them or otherwise. CENTEX will ask leave of Court to meend this Third-Party Complaint to insert the true names and capacities of the DOES and state appropriate charging allegations, when that information has been ascertained.

- 4. That CENTEX specifically complains and alleges causes of action against the specific emity, or entities, that developed, performed work, installed, designed, constructed, supplied materials and/or were otherwise responsible for the subject real properties and the improvements made thereon. As of the filling of this Third-Party Complaint, CENTEX is not sure as to whother those entities are individuals, a partnership, a limited partnership, a corporation, an association of individuals and business, or some other form of business ownership, and as soon as the exact nature of the entity or entities that developed, performed work, installed, designed, constructed, supplied materials and/or were otherwise responsible for the subject real property and the improvements made thereon are known, CENTEX will amend its Third-Party Complaint and will substitute the exact names of the proper THIRD-PARTY DEFENDANTS in place of DOES 1 through 500.
- 5. The work being done by or materials supplied by each of the THIRD-PARTY
 DEFENDANTS was pursuant to a contract to complete construction work, provide materials, design
 services, and/or other functions associated with construction pursuant to design plans and
 specifications of the subject properties referenced above.
- 6. That while working at the site or on the project, THRD-PARTY DHFENDANTS acted in a negligent and/or carcless manner, performed acts which resulted in breached warranties to CHNTHX and/or others, including, but not limited to those of fitness and merchamability, and/or supplied defective products in an unreasonably dangerous and defective condition, which allegedly

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injured mid/or caused damages to Plaintiffs, as alleged in Plaintiffs' SECOND AMENDED. Said acts have also resulted in damages to CENTEX by subjecting CENTEX to suit.

II.

FIRST CLAIM FOR RELIEF

(Negligence)

- 7. CENTBX refers to, realleges, and incorporates herein the allegations of Paragraphs 1 through 6 of this Third-Party Complaint as though fully set forth herein.
- B. THIRD-PARTY DRIENDANTS, and each of them, owed a contractual and/or legal duty to CENTEX to exercise due and reasonable care in the dealgn, construction and/or development of the subject properties. THIRD-PARTY DRIENDANTS also had a legal duty to abide by local construction practices, industry ataudards, governmental codes and restrictions, manufacturer requirements. Washoe County Building Codes, product specifications and/or the laws of the State of Neyada.
- 9. If the subject properties are defectively designed, developed and/or constructed,
 THIRD-PARTY DEPENDANTS, and each of them, are responsible for such defects in that they
 failed to not reasonably in the design, development and construction of the subject properties, thereby
 breaching their duty owed to CENTEX.
- 10. If the subject properties are defectively designed, developed and/or constructed, the note or omissions of THIRD-PARTY DEFENDANTS, and each of them, were the direct and proximate cause of my and all demages incurred by CENTEX.
- 11. CENTEX is informed and believes and on that basis alloges that Plaintiffs' damages, if any, were proximately caused by THERD-PARTY DEFENDANTS, and each of them, and that said THERD-PARTY DEFENDANTS are liable for the damages sought by Plaintiffs in its FIRST AMENDED COMPLAINT:
- 12. The breach(es) of the aforementioned duties by each THRD-PARTY DEFENDANT as described in Paragraphs 8 through 11 above was and is the actual and proximate cause of damages to CENTRX in excess of \$10,000.
 - 13. It has been necessary for CENTEX to retain the services of LHE, HERMANDEZ,

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BROOKS, GAROFALO & BLAKE, APC, to defend the Plaintiffs' action and to bring this action.

CENTEX is entitled to recover attorneys' fees and costs incurred becoin pursuant to the contractual provisions of the agreements and Nevada law.

m.

SECOND CLAIM FOR RELIEF

(Breach of Contract)

- 14. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs 1 through 13 as though fully set forth herein.
- CENTEX is informed and believes and thereon alleges that it entered into written,
 oral and implied agreements with THIRD-PARTY DEFENDANTS.
- 16. CENTEX has fully performed all conditions, covenants and promises required by them to be performed in accordance with the terms and conditions of said written, oral and implied agreements.
- DEFENDANTS, and each of them, have breached said written, oral and implied agreements by failing to perform their work (a) in compliance with the applicable standard of care, (b) in a good and workmanlike manner, and (c) in a manner that was consistent with their legal obligations as set forth in the various written agreements. Further, CENTEX is informed and believes and thereon alleges that THIRD-PARTY DEFENDANTS have breached their agreements by (1) failing to defend and indomnify CENTEX as a result of Plaintiffs' FIRST AMENDED COMPLAINT; (2) failing to name CENTEX as an additional insured as required under the agreements and (3) by failing to take appropriate steps to make sure that appropriate additional insured endorsements and insurance coverage had been obtained.
- 18. As a direct and proximate result of THIRD-PARTY DEFENDANTS' breach of contract, CENTEX has been damaged in a sum which is currently unascertainable but in excass of \$10,000. CENTEX will seek leave of court to amend this Third-Party Complaint when such sums can be reasonably ascertained.
 - 19. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ,

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BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action.

CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18,010; the contractual provisions of the agreements and Nevada law.

IV.

THIRD CLAIM FOR RELIEF

(Breach of Express and Implied Warranties)

- 20. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs I through 19 as though fully set forth herein.
- 21. CENTEX is informed and believes and thereon alleges that pursuant to the agreements between CENTEX and THIRD-PARTY DEFENDANTS, THIRD-PARTY DEFENDANTS implicitly and expressly warranted that the work would be done in a good, workmanilks, and substantial manner, in full accordance with the provisions and conditions of the agreements and the plans and specifications.
- 22. CENTEX relied upon said warranties and believed that said work was performed pursuant to said agreements and would be of a first class and workmanlike manner for its intended use and purpose.
- 23. CENTEX is informed and believes and thereon alleges that THRD-PARTY
 DEFENDANTS, and each of them, breached said agreements as it has been alleged by Plaintiffs in
 the underlying action herein, that numerous deficiencies exist at the subject property as set forth in
 Plaintiffs' SECOND AMENDED COMPLAINT on file herein, which alleged deficiencies are
 incorporated herein by reference.
- 24. As a proximate result of the breach of express and implied warranties by THIRD-PARTY DEFENDANTS, and each of them, CENTEX alleges that it will suffer damages in a sum equal to any sums paid by way of settlement, or in the alternative, judgment rendered against CENTEX in the underlying action based upon Plaintiffs' FIRST AMENDED COMPLAINT.
- 25. This Third-Party Complaint will serve as notice of such conditions and CENTEX is informed and believes and thereon alleges that THIRD-PARTY DEPENDANTS, and each of them, declined to acknowledge the responsibilities to repair the alleged deficiencies as referenced above.

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- 26. The breach(es) of the aforementioned warranties by each THIRD-PARTY
 DEFENDANT as described in Paragraphs 21 through 25 above was and is the actual and proximate cause of damages to CENTEX in excess of \$10,000.
- 27. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action. CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the contractual provisions of the agreements and Nevada law.

FOURTH CLAIM FOR RELIEF

(Implied Indemnity)

- 28. CENTEX refers to, realloges, and incorporates herein by reference Paragraphs 1 through 27 as though fully set forth herein.
- 29. CENTEX is informed and believes and thereon alleges that CENTEX entered into written, oral and implied agreements with the THIRD-PARTY DEFENDANTS.
- 30. By reason of the foregoing, if Plaintiffs renover against CENTEX, then CENTEX is entitled to implied contractual indemnity from THIRD-PARTY DEFENDANTS, and each of them, for damages sustained by Plaintiffs, if any, for my sums paid by way of settlement, or in the alternative, judgment rendered against CENTEX in the underlying action based upon Plaintiffs' SECOND AMENDED COMPLAINT or any Cross-Claims or Third-Party Claims filed herein.
- 31. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE to defend Plaintiffs' action and to bring this action. CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the contractual provisions of the agreements and Nevada law,

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VL.

FIFTH CLAIM FOR RELIEF

(Express Indomnity)

- 32. CENTEX refers to, xealleges, and incorporates herein by reference Paragraphs I through 31 as though fully set forth herein.
- 33. The damages alleged and the claims made by Plaintiffs against CENTEX are the proximate result in whole or in part of the acts of THIRD-PARTY DEFENDANTS and each of them.
- 34. As a result of the Plaintiffs' claims against CENTEX, CENTEX may be held liable to Plaintiffs for all or part of said damage which may be sustained, in which event, CENTEX is entitled to be indemnified by THIRD-PARTY DEFENDANTS and each of them.
- 35. It has become necessary for CENTEX to bring this Third-Party.Complaint, and therefore, CENTEX is entitled to recover reasonable attorney's fees and costs of suit.
- 36. Pursuant to the terms of the agreements entered into between CENTEX and THIRD-PARTY DEFENDANTS, CENTEX has rights of indemnification from the THIRD-PARTY DEFENDANTS and each of them.
- 37. Pursuant to the terms of the agreements entered into between CENTEX and THIRD-PARTY DEFENDANTS, THIRD-PARTY DEFENDANTS and each of them have duties to defend CENTEX in the action filed by Plaintiffs.
- 38. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE to defend Plaintiffs' action and to bring this action. CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the contractual provisions of the agreements and Nevada law.

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VII.

SIXTH CLAIM FOR RELIEF

(Equitable Indomnity)

- 39. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs I through 38 as though fully set forth berein.
- 40. CENTEX is informed and believes and thereon alleges that THIRD-PARTY
 DEFENDANTS and DOES 1 through 500, inclusive, are and at all times herein mentioned were,
 either individuals, sole proprietorabips, partnerships, registered professionals, corporations, or other
 legal antities which are licensed to do and were doing business in the County of Clark, State of
 Nevada, at all times relevant to the subject matter of this action.
- 41. CENTEX is informed and believes and thereon alleges that the defects and damages alleged by Plaintiffs in their FIRST AMENDED COMPLAINT involve defects and damages to or destruction of property and CENTEX is further informed and believes and thereon alleges that said damages were caused by THIRD-PARTY DEFENDANTS, and each of them, arising out of and in connection with, the performance of THIRD-PARTY DEPENDANTS' operations and work at the subject property.
- 42. In equity and good conscience, if Plaintiff's recover against CENTEX herein, then CENTEX is entitled to equitable indemnity, apportionment of liability and contribution among and from the THIRD-PARTY DEFENDANTS, and each of them, according to their respective faults for the damages altegedly sustained by Plaintiffs, if any, by way of sums paid by settlement, or in the alternative, judgment rendered against CENTEX based upon Plaintiffs' FIRST AMENDED COMPLAINT.
- 43. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action. CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the contractual provisions of the agreements and Nevada law.

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SEVENTH CLAIM FOR RELIEF

(Contribution)

- 44. CENTEX refers to, realleges, and incorporates herein by reference Paragraphs 1 through 43 as though fully set forth herein.
- 45. Based upon the acts and/or omissions of the THIRD-PARTY DEFENDANTS, and each of them, if a judgment is rendered on behalf of Plaintiffs, CENTEX is entitled to contribution from each of the THIRD-PARTY DEFENDANTS in an amount proportionate to the amount of negligence and/or fault attributable to each of the THIRD-PARTY DEFENDANTS.
- 46. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE, APC., to defend the Plaintiffs' action and to bring this action. CENTEX is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010; the contractual provisions of the agreements and Nevada law.

. VIIII.

EIGHTH CLAIM FOR RELIEF

(Apportionment)

- 47. CENTEX repeat and reallege the allegations of Paragraphs 1 through 46 of the Third-Party Complaint as though fully set forth herein.
- 48. CENTEX are entitled to an apportionment of liability among THIRD-PARTY DEPENDANTS, and each of them.
- 49. It has been necessary for CENTEX to retain the services of an attorney to bring this action. Accordingly, CENTEX are entitled to recover their reasonable attorneys' fees and costs incurred berein.

IX.

NINTH CLAIM FOR RELIEF

(Declaratory Reliaf)

 CENTRX refers to, realleges, and incorporates herein by reference Paragraphs 1 through 49 as though fully set forth herein.

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THIRD-PARTY DEFENDANTS, and each of them, as to their rights and liabilities with respect to any ultimate responsibility in the underlying action, and with respect to the rights to receive, or duty to give, indemnification in proportion to their comparative fault, if any. CENTEX contends that if it suffers judgment in the underlying action, or if it pays monies by way of reasonable compromise of said claim, CENTEX is critical to be indemnified by THIRD-PARTY DEPENDANTS and to judgment over and against them, to the extent that CENTEX's responsibility in the underlying action exceeds their percentage of negligence, fault or liability, if any. CENTEX is informed and believes that THIRD-PARTY DEFENDANTS contend to the contrary. Therefore, an actual controversy codsts relative to the legal duties and rights of the respective parties pursuant to their written agreements, which controversy CENTEX requests the Court to resolve.

- 52. All of the rights and obligations of the parties hereto arose out of what is actually one transaction or one series of transactions, happenings or events, all of which can be settled and determined in a judgment in this one action. CENTEX alleges that an actual controversy exists between the parties to the Third-Party Complaint under the circumstances alleged. A declaration of rights, responsibilities and obligations of CENTEX and THIRD-PARTY DEFENDANTS, and each of them, is essential to determine their respective obligations in connection with the principal action and CENTEX has no true and speedy remedy at law of any kind.
- 53. It has been necessary for CENTEX to retain the services of LEE, HERNANDEZ, BROOKS, GAROFALO & BLAKE, APC., to defend Plaintiffs' action and to bring this action.

 CENTEX is entitled to recover attorneys' fees and costs incurred herein.

WHEREFORE, CENTEX prays for judgment against Plaintiffs as follows:

- That Plaintiffs take nothing by virtue of its FIRST AMENDED COMPLAINT;
- 2. For the costs of suit incurred herein;
- For attorneys' fees and costs; and
 - 4. For such other and further relief as the court deems just, equitable and proper.

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WHEREFORE, CENTEX prays for judgment against THIRD-PARTY DEFENDANTS, and each of them, as follows:

- 1. For general and special damages in excess of \$10,000.00;
- For indemnity for all damages and/or economic losses that Plaintiffs or any other
 Third-Party Complainant, Cross-Claimant, or Counter-Claimant recovers against
 CENTEX by way of judgment, order, settlement, compromise or trial;
- For reasonable attorneys' fees, costs, expert costs and expenses, pursuant to statutory law, common law, and contract law;
- 4. For projudgment interest;
- 5. For consequential damages in excess of \$10,000.00;
- 6. For incidental damages in excess of \$10,000.00;
- For a declaration of rights and obligations as between THIRD-PARTY PLAINTIFF and THIRD-PARTY DEFENDANTS;
- 8. For contribution pursuant to NRS 17.225;
- 9. For such other and further rollishes this Court may deem just, equitable and proper.

DATED this day of September, 2010.

LKE, HERNANDEZ, BROOKS, GAROFALO & BLAKE

By: DAVIDIS: LBR, HSQ. Novada Bas No. 6033

DAVID J. WRDEMEYER, ESQ Novada Bar No. 11318

7575 Vegas Drive, Sulte 150 Las Vegas, Nevada 89128

Attorneys for Defendant CENTEX HOMES

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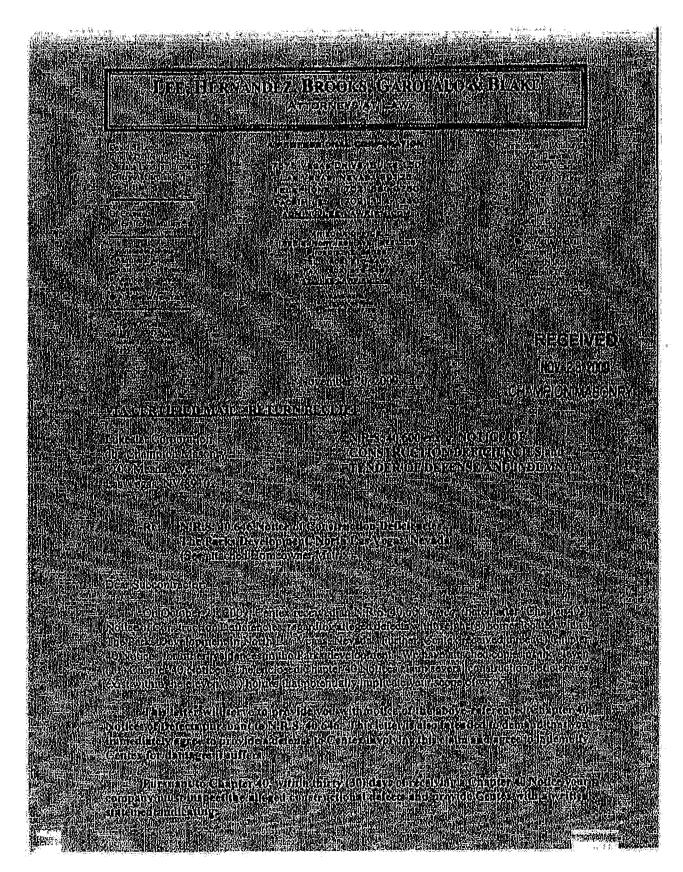
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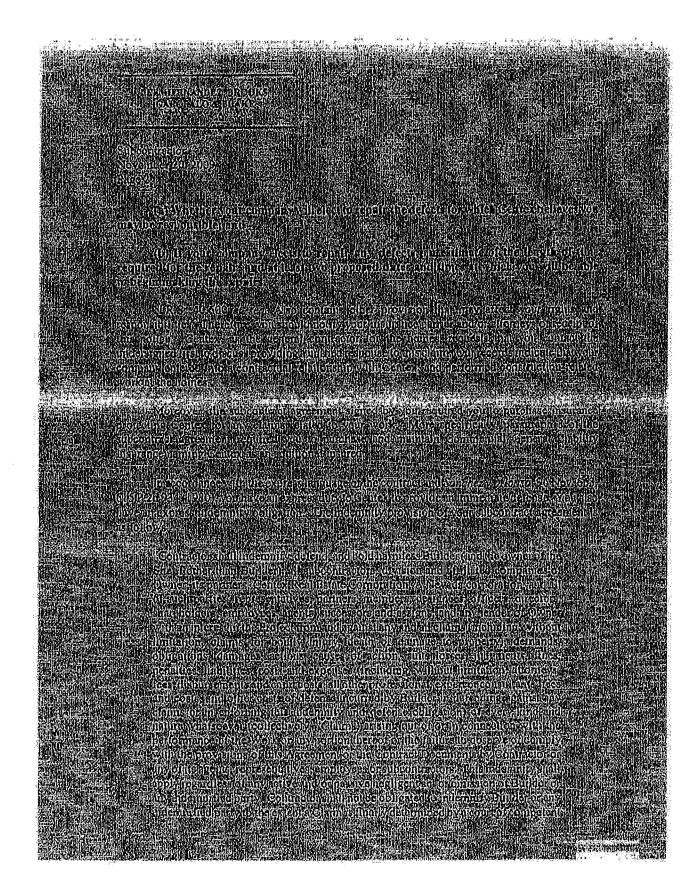
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Exhibit 39

Exhibit 39





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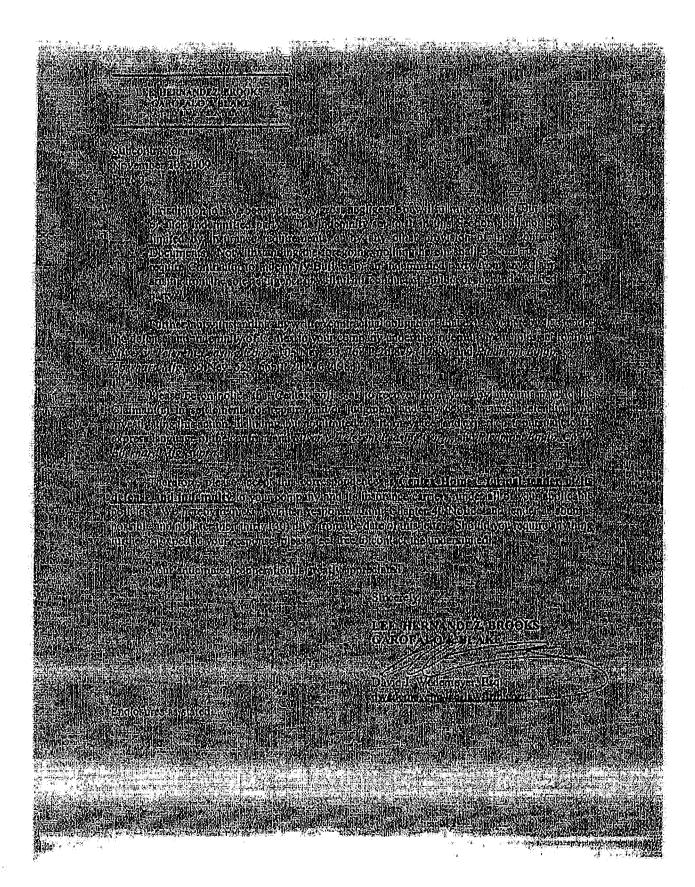


Exhibit 40

Exhibit 40

LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE

ATTORNEYS AT LAW

David S. Lee * †
Cindie D. Hernandez *©
Natasha Landrum Ross * †
Jeffery A. Garofalo * †
Lee P. Blake †
Jennifer B. Mullen *
Robert A. Carlson * •

- * Admitted in Nevada
- \$ Admitted in Arizona
- † Admitted in California
- D Admitted in Colorado
- Admitted in Florida
- P Admitted in New York

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 - * Sarah B. Hartig
 - * † Olga V. Kalinin
 - * Kelly L. Kindelan
 - * Eileen C. Luttrell
 - C A. Moria Maskall
 - Dayid R. Miller, Jr.
 - t Caitlin O'Connell
 - * Summer J. Petersen
 - * Charlene N. Renwick
 - * † Elizabeth C. Spaur

January 28, 2011

CARE CENTER-NEW LOSS

VIA FACSIMILE (866) 257-1205

TENDER OF DEFENSE AND INDEMNITY

American Guarantee & Liability Ins. Co. P.O. Box 66965 Chicago, IL 60666-0965

Re:

The Parks Development HOA, North Las Vegas, Nevada

Our Client: Co

Centex Homes

Your Insured: Lukestar Corporation dba Champion Masonry

Policy No(s).: GLO 5235922-0

Dear Insurance Carrier:

Our firm represents Centex Homes ("Centex") in the above-referenced matter. The Homeowners' Association ("HOA") of the project commonly known as The Parks Development ("The Parks") claims that construction defects exist in the common areas of the Development.

On November 18, 2010, Centex received an NRS 40.645 (hereinafter "Chapter 40") Notice of Construction Defects regarding alleged construction defects within the above-referenced development. A true and correct copy of said Notice is enclosed herewith as Exhibit "A." On or about December 16, 2010, the aforementioned Notice was sent to your insured to provide notice of The Parks HOA Chapter 40 Notice of Defects pursuant to NRS §40.646.

The enclosed Chapter 40 Notice claim that multiple construction defects exist within the above-referenced development that potentially implicate your insured's scope of work. Our client's records indicate that your insured entered into a contractual relationship with our client and performed construction related work at The Parks.

LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE ATTORNEYS ATLAW

American Guarantee & Liability Ins. Co. January 28, 2011 Page 2

This letter constitutes a formal tender of defense and demand for indemnification of Centex under any and all applicable insurance policies issued by your company. Please be advised that based upon the issued certificates of insurance, the contract language and general principles of indemnity set forth in Silver v. Telerent Leasing Corp., 105 Nev. 30, 768 P.2d 879 (1989); and Piedmont Equip. Co. v. Eberhard Mfg., 99 Nev. 523, 665 P.2d 256 (1983), Centex will also seek to recover from you any amounts paid to Plaintiffs in settlement and/or judgment and any costs incurred defending claims relating to your insured's scope of work (including, but not limited to, attorneys' fees and expert costs) pursuant to NRS 40.600 et seq., the contract and any and all additional insured endorsements issued in favor of Centex.

For your information, the subcontract agreement between your insured and Centex includes the following applicable provision:

8. Insurance The following coverage limits are minimum requirements (the Required Insurance)

(a) Commercial General Liability

- i. \$1,000,000 each occurrence limit \$1,000,000 personal and advertising injury limit, \$1,000,000 general aggregate limit, \$1,000,000 products-liability completed operations aggregate limit (except if Contractor is engaged in trenching activities over five (5) feet in depth, the minimum dollar limits shall be \$5,000,000) or equivalent by Builder, or current limit carried, whichever is greater;
- ii. ISO or comparable Occurrence Form (Occurrence Form #CG0001-1093) (Modified Occurrence and Claims Made forms are not acceptable; if Modified Occurrence or Claims Made coverage is submitted, Builder shall have the right to cancel any Agreement or stop work and withhold payment to Contractor until proof of Occurrence form coverage is received);
- iii. Bodily injury liability, broad form property damage coverage including completed operations, products liability/completed operations coverage (including products liability for any product manufactured or assembled), premises operations, blanket contractual liability (for this Agreement),

LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE ATTORNEYS AT LAW

American Guarantee & Liability Ins. Co. January 28, 2011 Page 3

personal and advertising injury, independent contractor's liability, mobile equipment, Builders and contractors protective liability, damage from explosion, collapse and underground hazards (i.e. XCU exclusion deleted), and cross-liability and severability of interest clauses. Such coverage shall extend to the negligent acts, errors or emissions of Builder in connection with or relating to the Work and shall not be limited to vicarious liability;

- iv. Endorsement ISO-Form B #CG2010-1185 or its equivalent at no expense to Builder naming Centex Homes a Nevada general partnership, Centex Real Estate Corporation a Nevada corporation, and the Builder of the Site if other than Builder, their respective officers, directors, partners, members and employees, as additional insureds;
- v. A provision that such insurance afforded by the policy for the benefit of the additional insureds shall be primary insurance but only as respects any claims, losses, or liabilities relating to or arising out of the operations of the named insured, and any insurance or self insurance maintained by the additional insureds shall be non-contributing;
- vi. An endorsement affording thirty (30) days prior notice to Builder by certified mail in the event of cancellation, non-renewal, modification or reduction in coverage. The reference to "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company its agents or representatives" in the cancellation notification portion of the certificate and/or endorsement must be deleted;
- vii. A deductible or self-insured retention of not more than \$5,000 (unless otherwise approved by Builder);
- viii. With respect to any Contractor performing trenching activities over five (5) feet in depth or grading operations of any manner, no exclusionary language or limitations relating to soils subsidence or earth movement of any kind regardless of cause;

LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE ATTORNEYS AT LAW

American Guarantee & Liability Ins. Co. January 28, 2011 Page 4

- ix. No exclusion with respect to condominiums, multi-family, or multi-unit dwellings; and
- x. A provision that defense costs are paid in addition to and do not deplete any policy limits.

Please be advised that this matter is on-going. Therefore, we invite your favorable participation as quickly as possible. If additional materials are needed for your investigation, please do not hesitate to contact the undersigned.

Thank you for your assistance in this matter.

Very truly yours,

LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE

Elizabeth C. Spaur, Esq. bspaur@lee-lawfirm.com

Exhibit 41

Exhibit 41

From: Sanford Oster [mailto:Sanford.Oster@ironshore.com]

Sent: Thursday, November 01, 2012 6:59 PM

To: Robert Weingarten; Mel L. Proffitt

Subject: Fw: CL # 113658 / Brundege / Champion Masonry

OK to Issue

Sanford Oster, AVP

Casualty Claims

Ironshore

One State Street Plaza

New York, NY 10004

646 826-4944-Office

347 759-1976-Cell

Sanford.oster@ironshore.com

From: Robert Weingarten [mailto:rweingarten@mldman.com]

Sent: Thursday, November 01, 2012 06:14 PM

To: Sanford Oster

Cc: Mel L. Proffitt MLPROFFITT@mldman.com

Subject: CL # 113658 / Brundege / Champion Masonry

Re: Brundege, et al v Centex Homes, et al

Insured: Champion Masonry

Policy No. : 011040905001 effective May 31, 2009-10

Claimant : Brundege, et al

Our File No. # 113658-MP

Sandy -

Attached please find a supplemental copy of our initial report and recommended Al declination of coverage letter, as they pertain to the above-referenced matter.

This action involves allegations of construction defect and property damage made by the owners of residences located in the city of North Las Vegas, NV. It appears Champion Masonry completed their work on the project(s) involved in this case from 2000 to 2003.

The documents supplied to us revealed the construction involved in this project was completed by Champion Masonry before the policy inception date. Ironshore issued (1) CGL policy to the named insured spanning from 5/31/09-10.

As the insured's work was completed prior to the inception of the ironshore policies, given the nature of the plaintiffs' allegations, and given that the policy adopts the Continuous or Progressive injury Exclusion, it is our position that coverage is precluded for the tendering developer. Ironshore previously authorized the issuance of a NI declination letter. Attached for your review and authority to submit, please find a draft NI declination letter. Please advise if we are authorized to issue same.

Should you have need for additional information, or have any questions or concerns in this regard, please do not hesitate to contact us.

Thank you for your attention to this matter.

Rob Weingarten

Assistant Vice President

Midlands Claim Administrators, Inc.

3503 N.W. 63rd Street

Oklahoma City, Oklahoma 73116

Direct Line (949) 463-2112

Fax (405) 840-0584

E-mail: rweingarten@midman.com mallto:rweingarten@midman.com

Exhibit 42

Exhibit 42

Case 2:15-cv-00460-JAD-PAL Document 39-44 Filed 09/16/16 Page 2 of 15 (Page 50 of 69) (Page 2 of 17) Electronically Filed 01/05/2012 07:14:50 AM 1 COMPC Duane E. Shinnick, Esq. **CLERK OF THE COURT** 2 Bur No. 7176 Eric Ransavage, Esq. 3 Bar No. 8876 Bradley S. Rosenberg, Esq. Bar No. 8737 SHINNICK RYAN & RANSAVAGE P.C. 2881 Business Park Court, Suite 210 Las Vegas, NV 89128 Tel. (702) 631-8014 Fax (702) 631-8024 7 cransayage@asilplaw.com 8 Attorneys for Plaintiffs 9 10 DISTRICT COURT 11 CLARK COUNTY, NEVADA 12 13 NOVEA G. MARCEL, individually; and the 12-654209-D same on behalf of themselves and on behalf of 14 DEPT. NO. others similarly situated, and ROES 1-600, inclusive 15 Plaintiffs, ARBITRATION EXEMPTION CLAIMED: 16 Class Action 17 CONSTRUCTION DEFECT THE DEVELOPERS OF NEVADA, LLC., a CLASS ACTION COMPLAINT 18 Nevada Limited-Liability Company; and DOES 1 through 500, inclusive, 1.9 Defendants. 20 21 COMPLAINT FOR DAMAGES 22 Comes Now Plaintiff, NOVEA G. MARCEL, individually, and the same on behalf of themselves 23 24 and on behalf of others similarly situated (hereinafter "Plaintiffs"), by and through their attorneys, 25 Duane E. Shinnick, Esq., Eric Ransavage, Esq. and Bradley S. Rosenberg, Esq. of the law firm of 26 SHINNICK, RYAN & RANSAVAGE P.C., and for causes of action against Defendants, and each of 27 them, allege and complain as follows:

COMPLAINT FOR DAMAGES

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GENERAL ALLEGATIONS

- 1. Plaintiffs are owners of individual residences within the housing developments known as DOVE CANYON, in North Las Vegas, Novada, more specifically described as residences in the subdivision of DOVE CANYON UNIT 1; DOVE CANYON UNIT 2; DOVE CANYON UNIT 3; DOVE CANYON UNIT 4; DOVE CANYON UNIT 5; as recorded with the Clark County Recorder in Plat Book 95, page 83; Plat Book 98, page 86; Plat Book 106, page 50; Plat Book 103, page 42; Plat Book 101, page 10; and the materials and workmanship of their residences are substantially the same as the other 137 residences at the DOVE CANYON development.
- Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages suffered by each unit owner as to their separate interests as delineated by law.
- 2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.
- 3. The property and buildings thereupon will hereinafter sometimes be referred to as the "subject property."
- 4. A class action is alleged pursuant to Nevada Rules of Civil Procedure Rule 23. The class consists of all owners of the subject property. Class Representative Plaintiffs bring this action as a class action, as representatives of all individuals who own one or more single family homes at the subject property in Clark County, Nevada.
 - a) Plaintiffs allege that the class, consisting of the owners of approximately 137 units, is so numerous that joinder of all homeowners individually would be impractical and that disposition of their claims in a representative suit is a benefit to the court.

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- Plaintiffs have a well defined community of interest or questions of fact and law common to each member of the class in that all members of the class have suffered injuries due to construction defects, the related stigma, diminution in value, lost rents, and personal property damage, as a result of expansive soils and other defects, relevant causes, and the claims herein alleged by Plaintiffs are representative of those claims which could be alleged by such members of the class.
- e) Plaintiffs allege that the relief herein sought is typical of the relief which could be sought by each of the class members.
- d) Plaintiffs allege that questions of law and fact common to the class predominate over questions affecting the individual class members, and that the interest of justice and efficiency will be best served by bringing this action as a class action with regard to the aforementioned interests.
- e) Plaintiffs allege that the prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to the individual members of the class which would establish incompatible standards of conduct by the parties opposing the class, and adjudication with respect to individual members of the class would be dispositive of the interest of other members not parties to the adjudication, or would substantially impair or impeded their ability to protect their interests.
- f) The Class Representative Plaintiffs have typical claims as the members of the class and were damaged by the acts and practices of the Defendants. They will fairly and adequately protect the interest of the class, as each is an owner of real property within the affected area identified below, and each was damaged by the acts and practices of

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(Page 5 of 17)

Defendants, and each of them. Class Representative Plaintiffs have no conflicts with the other homeowners of the subject property single family homes, with respect to the claims alleged and have retained competent and experienced counsel to represent them.

- g) The members of the class are easily located and identified as all individual homeowners at the subject property. The names and addresses of the individuals who own single family homes at the subject property are maintained as public records.
 There is no plain, speedy, or adequate remedy other than maintenance of this class action. Consequently, there would be a failure of justice and efficiency, but for the maintenance of this class action.
- 5. The Defendants are identified as follows: Plaintiffs allege that Defendant THE DEVBLOPERS OF NEVADA, LLC., a Nevada Limited-Liability Company, authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Clark, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.
- 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the agents, servants and employees of each other and were acting in the course and scope of their agency or employment in doing the acts herein alleged.
- 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does 1 to 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in some manner for the defective and negligent engineering, architecture, construction, supply of improper materials, and inspection of the subject property single family homes, or in some other

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(Page 5 of 14) (Page 54 of 69)

(Page 6 of 17)

 actionable manner were an integral part of the chain of development, construction and marketing of the subject property single family homes, and that Plaintiffs damages as herein alleged were proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true names and capacities of such defendants are ascertained.

- 8. Defendants Does 1 through 500, inclusive, whether individual, corporate, associate or otherwise are fictitious names of defendants whose true names and capacities, at this time, are unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times herein mentioned each of the defendants sued herein as Does 1 through 500 was the agent, servant and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in the scope of his or her authority as such agent, servant and employee, and with the permission and consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave of this Court to amend this Complaint to insert said true names and capacities.
- 9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes of limitations that the subject property has and is experiencing defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.

It was the result of the representations by Defendants that they would repair the defects and their conduct in so performing some works of repair, as well their proposals for correcting the defects that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit

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against said Defendants. By virtue of the fact that Defendants were the developers, contractors and sellers of the subject property and aware of the particular nature of the project, including its design, composition, and component parts, and when said Defendants represented that Defendants would repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in relying on said representations and conduct by said Defendants in permitting them to investigate and repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 11.190.

On numerous occasions Defendants represented to Plaintiffs that the defective systems and materials were not inadequate, and that repairs had been successfully performed thereby inducing reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore, Defendants are estopped from asserting any potentially applicable statutes of limitations. Damage has also occurred at various times in the past, including progressive damage.

10. Within the last year, Plaintiffs have discovered that the subject property has and is experiencing additional defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.

FIRST CAUSE OF ACTION

(Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1 through 400)

11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint as though fully set forth herein.

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COMPLAINT FOR DAMAGES

(Page 8 of 17)

12. On or about various dates commencing in 2002, and continuing thereafter in the County of Clark, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered into contracts in writing with Defendants for the purchase from said Defendants of one or more of the units in the subject property.

- 13. At the time of negotiations of said contracts, but before said contracts were executed between the Plaintiffs and/or their predecessors in interest and said Defendants, as an inducement to the Plaintiffs and/or their predecessors in interest to purchase said units, and as a part of the basis of the bargain of the parties that culminated in the making of the contracts, said Defendants expressly warranted to Plaintiffs and/or their predecessors in interest that said units were constructed in conformity with the applicable building codes and the specific codes and regulations of Clark County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.
- 14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of fact, and promises made by Defendants. Plaintiffs, and each of them, have duly performed all the conditions and covenants of said contracts on their part to be performed.
- 15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, to remedy these defects.
- 16. As a direct and proximate result of the breach of the express warranties (written and oral) by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship.

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17. Plaintiffs have suffered damages in an amount not fully known, but believed to be within the jurisdiction of this Court in that they have been and will hereafter be required to perform works of repair, restoration, and construction to portions of the structures to prevent further damage and to restore the structures to their proper condition. Plaintiffs will establish the precise amount of such damages at trial, according to proof.

18. Plaintiffs are entitled to all damages set forth at NRS 40.655.

SECOND CAUSE OF ACTION

(Breach of Implied Warranties-Third Party Beneficiary

as against Does 1 through 400)

- 19. Plaintiffs reallege and incorporate by reference paragraphs 1 through 18 of the Complaint as though fully set forth herein.
- 20. Plaintiffs are informed and believe and on that basis allege that Defendants and Doe defendants other than THE DEVELOPERS OF NEVADA, LLC. entered into contracts with these entities to perform certain services or work with regard to the design, construction and inspection of construction of the residences at the subject property. Plaintiffs and/or their predecessors in interest were third party beneficiaries of each and every such contract.
- 21. Further, said Doe defendants by entering into said contracts with THE DEVELOPERS OF NEVADA, LLC. and/or Plaintiffs and/or their predecessors in interest, impliedly warranted that said homes would be of good and merchantable quality and would be at least a quality as would be fit for the ordinary purpose for which such homes were to be used and would be habitable. Further, said Doe defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.

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- 22. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Doe defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.
- 23. Certain Plaintiffs and/or Homeowners at the subject property have notified Doe defendants of said breach of implied warranties and said Doe defendants have refused and continue to refuse to remedy these defects.
- 24. As a direct and proximate result of the breach of the implied warranties by Doe defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship. Numerous additional defective conditions exist as more particularly described in Plaintiffs' expert reports. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, and in accordance with NRS 40,655.

THIRD CAUSE OF ACTION

(Negligence and Negligence per se

As to All Defendants, and Does 1 through 400)

- 25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint as though fully set forth herein.
- 26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the subject structure and subject premises were not properly or adequately designed, engineered, marketed, supervised and/or constructed, that the owners and users would be substantially damaged thereby, and that the subject structures would be defective and not of merchantable quality.

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27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to exercise ordinary care to avoid reasonably foresceable injury to users and purchasers of the subject premises and structures, and knew or should have foreseen with reasonable certainty that purchasers and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of them, failed to perform their duty to cause the subject premises and subject structures to be designed, engineered and completed in a proper and workmanlike manner and fashion.

- 28. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and neglected to perform the work, labor and services properly or adequately in that each said Defendants so negligently, carclessly, recklessly and in an unworkmanlike manner designed, constructed and inspected the subject property and performed the aforesaid work, labor and/or services, such that the subject premises and subject structures as described herein were designed, engineered and/or constructed improperly, negligently, carclessly and/or in an unworkmanlike manner, thereby breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the premises were constructed in an unworkmanlike manner.
- 29. Defendants' negligence alleged above includes the failure to meet the applicable building codes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest were members of the class of persons which the building codes and ordinances were designed to protect. Such violations are negligence per se on the part of Defendants, and each of them.
- 30. As a direct and proximate result of the foregoing negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.

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26 27 31. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

FOURTH CAUSE OF ACTION

(Negligent Misrepresentation and Negligent Failure to Disclose

as to All Defendants and Does 1 through 400)

- 32. Plaintiffs reallege and incorporate by referenced paragraphs 1 through 31 of the Complaint, as though fully set forth herein.
- 33. Plaintiffs allege that, at all relevant times, Defendants, and each of them, owed to Plaintiffs and members of the general public, a duty to disclose all conditions potentially having adverse impact upon the subject properties, their value and their safety as well as stability. Plaintiffs allege that Defendants, and each of them, also owed Plaintiffs and members of the general public a duty to represent with reasonable accuracy the actual conditions, quality and significant factors concerning value, safety and stability of the subject properties. As the builders, developers and sellers of said subject properties, Defendants, and each of them, held a special relationship of trust and confidence with potential buyers such that duties of disclosure and accurate representations were incumbent upon Defendants, and each of them.
- 34. Plaintiffs allege that Defendants, and each of them, at all relevant times, in breach of the duties set forth above, negligently misrepresented and/or failed to disclose to Plaintiffs and members of the general public, facts and information regarding the defective conditions known to Defendants and affecting the subject properties, as described herein above.
- 35. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each of them, knew or should have known that members of the public, including the Plaintiffs, would purchase the single family homes and that Defendants who have superior knowledge and expertise as builders, developers and sellers of the subject properties, were required to correct any such defects in the

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 properties and were further required not to sell such defective properties, and were also required to make such defects in the properties known to Plaintiffs as prospective purchasers.

- 36. Had Plaintiffs known the undisclosed facts, Plaintiffs would have either investigated the condition and integrity of said homes and common areas or would have declined to purchase the residences, nor would Plaintiffs have relied, as they did, upon Defendants, and each of their, representations that the subject homes were generally in good condition and fit for their intended use and that all repair work and/or renovations had been successfully completed.
- 37. Plaintiffs allege that as a direct and proximate result of the defects set forth herein, Plaintiffs have suffered damages in an amount not fully known, but believed to be within the jurisdiction of this Court in that they have been and will hereafter be required to perform works of repair, restoration, and construction to portions of the structures to prevent further damage and to restore the structures to their proper condition. Plaintiffs will establish the precise amount of such damages at trial, according to proof.
 - 38. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

FIFTH CAUSE OF ACTION

(Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400)

- 39. Plaintiffs reallege and incorporate by reference paragraphs 1 through 38 of the Complaint, as though fully set forth herein.
- 40. All Defendants each impliedly warranted that said homes would be of good and merchantable quality, would be habitable, and would be completed in a workmanlike manner. Further, said Defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.

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3 41. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and 3 conditions of said contracts on their part to be performed. 42. Certain Plaintiffs and/or Homeowners at the subject property have notified Defendants of 5 said breach of implied warranties and said Defendants have refused and continue to refuse to remedy 6 7 these defects. 8 43. As a direct and proximate result of the breach of the implied warranties by Defendants and 9 each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, 10 defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco 11 cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor 12 13 workmanship. Plaintiffs are presently unaware of the precise amount of damages, but will establish 14 the same at trial according to proof. 15 1.6 111 17 18 ${\prime\prime\prime}$ 19 20 21 22 23 21 25 26 27 28

COMPLAINT FOR DAMAGES

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1 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as 2 follows: 3 1. For general and special damages in excess of \$10,000.00 including but not limited to, 4 costs of repair, loss of market value, loss of use, loss of financing, loss of investment 5 and out-of-pocket expenses to be determined at time of trial; б 2. For damages in an amount according to proof; 7 3. For reasonable attorneys fees and costs according to proof. 8 4. For prejudgment and post-judgment interest on all sums awarded, according to proof 9 at the maximum legal rate; 10 For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and 5. 11 40.655; 12 6. For costs of suit incurred; 13 7. For such other and further relief as the Court may deem just and proper. 14 DATED this 5th day of January, 2012 15 SHINNICK, RYAN & RANSAVAGE P.C. 16 17 By: /s/ Eric Ransavage Duane B, Shinnick, Esq. 18 Bar No. 7176 Eric Ransavage, Esq. 19 Bar. No. 8876 Bradley S. Rosenberg, Esq. 20 Bar, No. 8737 2881 Business Park Court, Suite 210 21 Las Vegas, NV 89128 Attorneys for Plaintiffs 22 23 24 25 26 27 28

COMPLAINT FOR DAMAGES

Exhibit 43

Exhibit 43

Electronically Filed 05/28/2013 04:26:32 PM TPC 1 CRAIG D. GUENTHER, ESQ. Nevada Bar No.: 6998 CLERK OF THE COURT 2 JAN LAUVER, ESQ. Nevada Bar No.: 3465 3 CRAIG D. GUENTHER, P.C. 9127 W. Russell Rd., Suite 220 4 Las Vegas, Nevada 89148 702.492.7646 5 Fax: 702.492.7656 craig@cdguentherlaw.com 6 rebecca@cdguentherlaw.com 7 ANN G. RICHARD, ESQ. Nevada Bar No.: 10202 8 COOKSEY, TOOLEN, GAGE, DUFFY & WOOG 3930 Howard Hughes Pkwy., Suite 200 9 Las Vegas, NV 89159 702.949.3100 10 Fax: 702.949.3104 arichard@cookseylaw.com 11 Attorneys for Defendant/Third-Party Plaintiff 12 THE DEVELOPERS OF NEVADA, LLC 13 DISTRICT COURT 14 CLARK COUNTY, NEVADA 15 CASE NO.: A-12-654209-D NOVEA G. MARCEL, individually; CLAUDIO DEPT NO.: XXII ALLENDE, individually; SONIA BURGOS, 16 individually, DIOMAR CHIN and GISELA BELTRAN, individually; JASON CORRAL, individually, CINDY DOWNER, individually; (ELECTRONIC FILING CASE) 17 ERWIN and ANA MARIA HERNANDEZ, 18 individually; MARILYN KOFF, individually; JOHN DEFENDANT/THIRD-PARTY PICCARDO TRUST and KATHLEEN THORNHILL TRUST, individually, RCL 19 PLAINTIFF THE DEVELOPERS OF NEVADA, LLC'S THIRD-PARTY INVESTMENT LLC, individually; JETMAS 20 COMPLAINT LIMITED PARTNERSHIP, individually; JACQUELYN WILLIAMS, individually; ROY E. 21 WILDER, SR., individually, CHRISTINA BRUNELLE, individually, TYRONE and MARIA 22 HANNA SPRING, individually; and the same on behalf of themselves and on behalf of others 23 similarly situated, and ROES 19-600, inclusive, 24 Plaintiffs, 25 26 THE DEVELOPERS OF NEVADA, LLC, a Nevada Limited-Liability Company; and DOES 1 27 through 500, Inclusive, 28 Defendants. Page 1 of 12

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   THE DEVELOPERS OF NEVADA, LLC, a
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   Nevada Limited-Liability Company; and DOES 1
   through 500, Inclusive,
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                    Defendants.
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   THE DEVELOPERS OF NEVADA, I.L.C, a
   Nevada Limited-Liability Company,
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                     Third-Party Plaintiffs,
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    BADGER CONSTRUCTION CO.; CBK, INC.;
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    C&F DISTRIBUTORS; CAMPBELL CONCRETE
    OF NEVADA, INC.; CAPITAL CABINET
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    CORP.; CHAMPION MASONRY; CLASSIC
    PLUMBING, INC.; CONCRETE SERVICES,
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    INC.; CUSTOM HEARTH DISTRIBUTORS;
    DAN BRADLEY'S GLASS SHOP; DISTINCTIVE
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    MARBLE, INC.; GARAGE DOOR CENTER;
    GENERAL ELECTRIC; GLAZING
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    INDUSTRIES; HARRISON DOOR CO.;
    INFINITY BUILDING PRODUCTS; INFINITY
    WINDOWS; IRON SPECIALISTS; METRO
    ELECTRIC; MS CONCRETE CO., INC.;
    NEVADA COUNTERTOP CORP.; PACIFIC
    STUCCO, INC.; PENINSULA FLOORS, INC. dba
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    THE DESIGN CENTER; SIERRA AIR
    CONDITIONING; SKYLINE INSULATION;
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     SOUND & SECURE dba EAGLE SENTRY; S&S
     PAIN'ITNG & DRYWALL; SOUTHERN
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     NEVADA PAVING, INC.; SOUTHWEST
     GLAZING; STATEWIDE LIGHTING CENTER,
 19
     INC.; SUN CITY LANDSCAPES & LAWN
     MAINTENANCE, INC.; SUN STATE
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     LANDSCAPING; TS PAINTING & DRYWALL,
     INC.; TITAN STAIRS, INC.; TRI-CITY
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     DRYWALL, INC.; VINYLWORKS, INC.;
     WESTCOR CONSTRUCTION dba SOUTHWEST
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     GLAZING; WILLIS ROOF CONSULTANTS;
     and ZOES 1 through 250, inclusive,
 23
                       Third-Party Defendants.
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DEFENDANT/THIRD-PARTY PLAINTIFF THE DEVELOPERS OF NEVADA, LLC'S THIRD-PARTY COMPLAINT

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COME NOW, Defendant/Third-Party Plaintiff, THE DEVELOPERS OF NEVADA (hereinafter referred to as "DEVELOPERS"), by and through their attorneys of record, CRAIG D. GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, for their Third-Party Complaint against BADGER CONSTRUCTION CO.; CBK, INC.; C&F DISTRIBUTORS; CAMPBELL CONCRETE OF NEVADA, INC.; CAPITAL CABINET CORP.; CHAMPION MASONRY; CLASSIC PLUMBING, INC.; CONCRETE SERVICES, INC.; CUSTOM HEARTH DISTRIBUTORS; DAN BRADLEY'S GLASSSHOP; DISTINCTIVE MARBLE, INC.; GARAGE DOOR CENTER; GENERAL FLECTRIC; GLAZING INDUSTRIES; HARRISON DOOR CO.; INFINITY BUILDING PRODUCTS; INFINITY WINDOWS; IRON SPECIALISTS; METRO ELECTRIC; MS CONCRETE CO., INC.; NEVADA COUNTERTOP CORP.; PACIFIC STUCCO, INC.; PENINSULA FLOORS, INC. dba THE DESIGN CENTER; SIERRA AIR CONDITIONING; SKYLINE INSULATION; SOUND & SECURE dba EAGLE SENTRY; S&S PAINTING & DRYWALL; SOUTHERN NEVADA PAVING, INC.; SOUTHWEST GLAZING; STATEWIDE LIGHTING CENTER, INC.; SUN CITY LANDSCAPES & LAWN MAINTENANCE, INC.; SUN STATE LANDSCAPING; TS PAINTING & DRYWALL, INC.; TITAN STAIRS, INC.; TRI-CITY DRYWALL, INC.; VINYLWORKS, INC.; WESTCOR CONSTRUCTION dba SOUTHWEST GLAZING; WILLIS ROOF CONSULTANTS; and ZOES 1 through 250, inclusive, (collectively hereinafter referred to as "Third-Party Defendants"), complain and allege the following:

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GENERAL ALLEGATIONS

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DEVELOPERS are a party to this action brought by Plaintiffs, who have named
 DEVELOPERS as Defendants.

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2. At all times relevant herein, Third-Party Defendants were entities doing business in the State of Nevada and developed and/or performed construction related work and/or supplied materials for the construction improvements within the housing development known as Dove Canyon, consisting of 188 single family residences, in N. Las Vegas, Nevada, which is the subject of Plaintiffs' Complaint (hereinafter the "subject property").

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3. The Third-Party Defendants, and each of them, were subcontractors and/or design professionals who, developed, designed, performed construction activities and/or provided materials and/or other items which were installed into and/or became a part of said subject property.

- 4. DEVELOPERS are informed and believe, and therefore allege, that the true names and capacities, whether individual, corporate, associate or otherwise of ZOES 1 through 250 are unknown to DEVELOPERS who therefore sue said Third-Party Defendants by said fictitious names. Third-Party Defendants designated as ZOES 1 through 250 are responsible in some manner as an entity developing, designing, performing construction related activities and/or providing materials for construction of the subject property and are responsible for the events and happenings described in Plaintiffs' Complaint, and all amendments made thereto and in this Third-Party Complaint which proximately caused damages to DEVELOPERS as alleged herein. DEVELOPERS are informed and believe that each of the Third-Party Defendants designated as ZOES in some manner developed, performed work, installed, designed, constructed or supplied materials to the subject property, pursuant to agreements between DEVELOPERS and Third-Party Defendants, and each of them, or otherwise. Third-Party Plaintiffs will ask leave of Court to amend this Third-Party Complaint to insert the true names and capacities of the ZOES 1 through 250 and state appropriate charging allegations when that information has been ascertained.
 - 5. That DEVELOPERS specifically complain and allege a cause of action against the specific entity, or entities, that developed, performed work, installed, designed, constructed, supplied materials and/or were otherwise responsible for the subject real property and the improvements made thereon. As of the filing of this Third-Party Complaint, DEVELOPERS are not sure as to whether those entities are individuals, a partnership, a limited partnership, a corporation, an association of individuals and business, or some other form of business ownership, and as soon as the exact nature of the entity or entities that developed, performed work, installed, designed, constructed, supplied materials and/or were otherwise responsible for the subject real property and the improvements made thereon are known, Third-Party Plaintiffs will amend their Third-Party Complaint and will substitute the exact names of the proper Third-Party Defendants in place of ZOES 1 through 250.

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- 6. The work being done by or materials supplied by each of the Third-Party Defendants were pursuant to a contract, whether express or implied, with DEVELOPERS to complete construction work, pursuant to design plans and specifications of the subject property referenced above.
- 7. That while working at the site, Third-Party Defendants acted in a negligent and/or careless manner, performed acts which resulted in the breach of their contractual obligations to DEVELOPERS and/or breach of warranties to DEVELOPERS and/or others, including, but not limited to those of fitness and merchantability, and/or supplied defective products in an unreasonably dangerous and defective condition, which allegedly injured and/or caused damages to Plaintiffs as alleged in Plaintiffs' Complaint and all amendments made thereto. Said acts have also resulted in damages to DEVELOPERS by subjecting DEVELOPERS to suit.

FIRST CLAIM FOR RELIEF

(Equitable Indemnity)
(Against all Third-Party Defendants)

- 8. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 7 as though fully set forth herein.
- 9. DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants are and at all times herein mentioned were, either individuals, sole proprietorships, partnerships, registered professionals, corporations, or other legal entities which are licensed and/or qualified to do and were doing business in the County of Clark, State of Nevada, at all times relevant to the subject matter of this action.
- alleged by Plaintiffs in their Complaint, and all amendments made thereto, involve defects and damages to or destruction of property and DEVELOPERS are further informed and believe and thereon allege that said damages were caused by Third-Party Defendants, and each of them, arising out of and in connection with, the performance of Third-Party Defendants' development, design, operations and work at the subject property.
- 11. In equity and good conscience, if Plaintiffs recover against DEVELOPERS herein, then DEVELOPERS are entitled to equitable indemnity, apportionment of liability and contribution among and from the Third-Party Defendants, and each of them, according to their respective faults for the injuries and damages allegedly sustained by Plaintiffs, if any, by way of sums paid by settlement, or in the alternative,

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Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its

reasonable attorney's fees and costs incurred herein.

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FOURTH CLAIM FOR RELIEF

(Negligence)

(Against All Third Party Defendants)

- DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 18 as 19. though fully set forth herein.
- Third-Party Defendants, and each of them, owed a contractual and/or legal duty to 20. DEVELOPERS to exercise due and reasonable care in the design, construction and/or development of the subject property. Third-Party Defendants also had a legal duty to abide by local construction practices, industry standards, governmental codes and restrictions, manufacturer requirements, Clark County Building Codes, product specifications and/or the laws of the State of Nevada.
- If the subject property is defectively designed, developed and/or constructed, Third-Party 21. Defendants, and each of them, are responsible for such defects in that they failed to act reasonably in the design, development and construction of the subject property, thereby breaching their duty owed to DEVELOPERS.
- If the subject property is defectively designed, developed and/or constructed, the acts or 22. omissions of Third-Party Defendants and each of them were the direct and proximate cause of any and all damages incurred by DEVELOPERS.
- DEVELOPERS are informed and believe and thereon allege that Plaintiffs' damages, if any, were proximately caused by Third-Party Defendants, as set forth above, and each of them, and that said Third-Party Defendants are liable for the damages sought by Plaintiffs in their Complaint.
- The breach(es) of the aforementioned duties by each Third-Party Defendant as described in Paragraphs 20 through 23 above were and are the actual and proximate cause of damages to DEVELOPERS in excess of \$10,000.
- It has been necessary for DEVELOPERS to retain the services of CRAIG D. 25. GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its reasonable attorney's fees and costs incurred herein.

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27 28 FIFTH CLAIM FOR RELIEF

(Breach of Express and/or Implied Warranties) (Against All Third-Party Defendants)

- DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 25 as 26. though fully set forth herein.
- DEVELOPERS are informed and believe and thereon allege that pursuant to the contracts 27. between DEVELOPERS and Third-Party Defendants, Third-Party Defendants impliedly and expressly warranted that the work would be done in a good, workmanlike, and substantial manner, in full accordance with the provisions and conditions of the agreements and the plans and specifications.
- DEVELOPERS relied upon said warranties and believed that said work performed pursuant to said agreements would be of a first class and workmanlike manner and fit for its intended use and purpose.
- DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants, 29. and each of them, breached said agreements as it has been alleged by Plaintiffs in the underlying action herein, that numerous deficiencies exist at the site as set forth in the Complaint on file herein, which alleged deficiencies are incorporated herein by reference.
- As a proximate result of the breach of express and/or implied warranties by Third-Party Defendants, and each of them, DEVELOPERS allege that it will suffer damages in a sum equal to any sums paid by way of settlement, or in the alternative, judgment rendered against DEVELOPERS in the underlying action based upon Plaintiffs' Complaint.
- This Third-Party Complaint will serve as notice of such conditions and DEVELOPERS are 31. informed and believe and thereon allege that Third-Party Defendants, and each of them, declined to acknowledge the responsibilities to repair the alleged deficiencies as referenced above.
- The breach(es) of the aforementioned warranties by each Third-Party Defendant as 32. described in Paragraphs 27 through 31 above, was and is the actual and proximate cause of damages to DEVELOPERS in excess of \$10,000.

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- 40. As a result of the Plaintiffs' claims against DEVELOPERS, DEVELOPERS may be held liable to Plaintiffs for all of said damage which may be sustained, in which event, DEVELOPERS are entitled to be indemnified by Third-Party Defendants, and each of them.
- 41. Pursuant to the terms of the agreements entered into between DEVELOPERS and the Third-Party Defendants, DEVELOPERS have rights of indemnification from the Third-Party Defendants, and each of them.
- 42. Pursuant to the terms of the agreements entered into between DEVELOPERS and the Third-Party Defendants, Third-Party Defendants, and each of them, have duties to defend DEVELOPERS in the action filed by Plaintiffs.
- 43. It has been necessary for DEVELOPERS to retain the services of CRAIG D. GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its reasonable attorney's fees and costs incurred herein.

EIGHTH CLAIM FOR RELIEF

(Declaratory Relief)
(Against all Third-Party Defendants)

- 44. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 43 as though fully set forth herein.
- A dispute has arisen and actual controversy now exists between DEVELOPERS and Third-Party Defendants, and each of them, as to their rights and liabilities with respect to any ultimate responsibility in the underlying action, and with respect to the rights to receive, or duty to give, indemnification in proportion to their comparative fault, if any. DEVELOPERS contend that if they suffer judgment in the underlying action, or if they pay money by way of reasonable compromise of said claim, DEVELOPERS are entitled to be indemnified by Third-Party Defendants and to judgment over and against them, to the extent that DEVELOPERS' responsibility in the underlying action exceeds their percentage of negligence, fault or liability, if any. DEVELOPERS are informed and believe that Third-Party Defendants contend to the contrary. Therefore, an actual controversy exists relative to the legal rights, duties and obligations of the respective parties, which controversy DEVELOPERS request the Court to resolve.

46. All of the rights and obligations of the parties hereto arose out of what is actually one transaction or one series of transactions, happenings or events, all of which can be settled and determined in a judgment in this one action. DEVELOPERS allege that an actual controversy exists between the parties to the Third-Party Complaint under the circumstances alleged. A declaration of rights, responsibilities and obligations of DEVELOPERS and Third-Party Defendants, and each of them, are essential to determine their respective obligations in connection with the principal action and Third-Party Complaint. DEVELOPERS have no true and speedy remedy at law of any kind.

47. It has been necessary for DEVELOPERS to retain the services of CRAIG D. GUENTHER, P.C. and COOKSEY, TOOLEN, GAGE, DUFFY & WOOG, APC, to defend the Plaintiffs' action and to bring forth this action. Accordingly, DEVELOPERS are entitled to recover its reasonable attorney's fees and costs incurred herein.

NINTH CLAIM FOR RELIEF

(Breach of Contract)
(Against all Third-Party Defendants)

- 48. DEVELOPERS refer to and incorporate herein by reference paragraphs 1 through 47 as though fully set forth herein.
- 49. DEVELOPERS are informed and believe and thereon allege that they entered into written agreements with Third-Party Defendants.
- 50. DEVELOPERS have fully performed all conditions, covenants and promises required by it to be performed in accordance with the terms and conditions of said written agreements.
- 51. DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants, and each of them, have breached said written agreements by failing to perform their work (a) in compliance with the applicable standard of care, (b) in a good and workmanlike manner and (c) in a manner that was consistent with their legal obligations as set forth in the various written agreements. Further, DEVELOPERS are informed and believe and thereon allege that Third-Party Defendants have breached their agreements by (a) failing to defend and indemnify DEVELOPERS as a result of Plaintiffs' Complaint, (b) failing to name DEVELOPERS as additional insured as required under the agreements, and (c) by failing to take appropriate steps to make sure that appropriate additional insured endorsements and insurance coverage had been obtained.

1	52.	As a direct and proximate result of Third-Party Defendants' breach of contract,			
2	DEVELOPERS have been damaged in a sum which is currently unascertainable. DEVELOPERS will seek				
3	leave of court to amend this Third-Party Complaint when such sums can be reasonably ascertained.				
4	WHEREFORE, THE DEVELOPERS OF NEVADA, LLC pray for judgment against Third-				
5	Party Defendants, and each of them, as follows:				
6	1.	For general and special damages in excess of \$10,000.00;			
7	2.	For indemnity for all damages and/or economic losses that Plaintiffs recover against Third-			
8		Party Plaintiffs by way of judgment, order, settlement, compromise or trial;			
9	3.	3. For reasonable attorneys' fees, costs, expert costs and expenses, pursuant to statutory law,			
10	common law, and contract law;				
11	4.	For prejudgment interest;			
12	5.	For consequential damages in excess of \$10,000.00;			
13	6.	For incidental damages in excess of \$10,000.00;			
14	7.	For an apportionment of liability among the Third-Party Defendants;			
15	8.	For a declaration of rights and obligations as between Third-Party Plaintiffs and Third-Party			
16	Defendants;				
17	9.	For contribution pursuant to N.R.S. 17.225;			
18	10.	10. For such other and further relief as this Court may deem just, equitable and proper			
19	DATED this 28th day of May 2013.				
20		CRAIG D. GUENTHER, P.C.			
21		The state of the s			
22	CRAIS D. GUENTHER, ESQ.				
23	Nevada Bar No.: 6998 JAN LAUVER, ESQ.				
24	Nevada Bar No.: 3465 9127 W. Russell Rd., Suite 220				
25		Las Vegas, Nevada 89148			
26		Attorneys for Defendant/Third-Party Plaintiff THE DEVELOPERS OF NEVADA, LLC			
27					
28					
	Page 12 of 12				

Exhibit 44

Exhibit 44

(Page 1 of 11) FILED Electronically 10-23-2012:10:56.52 AM 1 \$1425 Joey Orduna Hestings Jeffrey S. Spencer, Esq. Navada State Bar No. 9197 Clerk of the Court 2 Transaction # 3299823 LAW OFFICES OF MICHAEL B. SPRINGER, PC 9628 Prototype Court Reno, NV 89521 (775) 786-7445 3 Attorney for Plaintiffs 5 6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA 7 IN AND FOR THE COUNTY OF WASHOE 8 ADAM DROST; DEANNA DROST; SANDRA M¢GÜIRK; DALE W. HÖRNBACK; KAREN I, HORNBACK; RYAN HÖRNBACK; ROY B. CAGE, IR.; TERESA-MARIE IACONIS, 9 10 11 Case No. Plaintiffs, 12 Dept. No. THE LAW OFFICES OF
MICHAEL R. SPRINGER, PC
WAS Promoted Coar
Rear, Render Rection (725) 786-7947 (725) 786-7947 13 SILVERWING DEVELOPMENT 14 a Neveda corporation; and DOES I to 50, inclusive, 15 Defendants. 16 17 COMPLAINT 18 Plaintiffs, Adam Drost, Deanna Drost, Sandra McGuirk, Dale Homback, Karen Homback, 19 Ryan Hornback, Roy B. Cage, Jr., and Teresa-Marie Inconis, by and though their counsel, LAW 20 OFFICES OF MICHAEL B. SPRINGER, PC, for causes of action against Defendants, and each of 21 them, allege as follows: 22 GENERAL ALLEGATIONS 23 1. Plaintiffs, Adam Drost and Deanna Drost ("Drosts"), are the purchasers and current 24 owners of real property commonly telerred to as 1806 Kodiak Circle, Reng, NV 89511, APN 25 144-222-15 ("Subject Property"). 26 Plaintiff, Sandra McGuirk ("McGuirk"), is the purchaser and current owner of real 27 properly commonly referred to as 1739 Kodlak Circle, Reno, NV 89511, APN 144-221-08 ("Subject 28 Property"). 1

3,	Plaintiffs, Dale W	l. Hornback, Karen J. Hornb	ack, and Ryan Hornback ("Hornbacks")
are the purch	asers and current ov	wners of real property comm	only referred to as 1821 Kodiak Circle
Reno, NV 89	511, APN 144-22	1-03 ("Subject Property"),	

- 4. Plaintiffs, Roy B. Cage, Jr., and Teresa-Marie Iaconis ("Cage/Iaconis"), are the purchasers and current owners of real property commonly referred to as 1812 Kodiak Circle, Reno, NV 89511, APN 144-222-16 and 1830 Kodiak Circle, Reno, NV 89511, APN 144-222-19 ("Subject Property").
- 5. Plaintiffs are informed and believe, and thereon allege that Defendant, Silverwing Development, a Nevada corporation ("Silverwing"), is, and at all times relevant, was a Nevada corporation operating pursuant to the laws of the State of Nevada and at all times relevant, was authorized or licensed to do business in Washoo County, State of Nevada.
- 6. Plaintiffs had faith and confidence in Silverwing because it was a duly licensed contractor and Plaintiffs relied on such status and upon its representations as herein after referred to.
- 7. Plaintiffs are informed and believe, and thereon allege that Defendant, is and at all times relevant, was, a contractor licensed by the State of Nevada, as defined in NRS 40.620, and was engaged in the business of, including but not limited to: construction, development, improvement, repair, conversion, marketing and/or sales of real property and were engaged in such business regarding the Subject Properties in Washos County, State of Nevada.
- 8. Jurisdiction and venue for the claims herein is proper in the Second Judicial District Court of the State of Nevada for Washoe County.
 - 9. Pursuant to NRS 40.640 through NRS 40.695, Plaintiffs seek recovery for damages
- As of the present, the Subject Properties, and each of them, continue to suffer from construction defects, including, but not limited to fogged windows, broken window frames, water penetration, roof leaks, electrical, HVAC, plumbing defects, framing, roof defects, venting defects, as more fully described in the Chapter 40 Notices. Investigation is ongoing and Plaintiffs may discover additional defects which they shall then disclose.
- Plaintiffs are informed and believe, and thereon allege, that Defendants and DOES 1-50, acted as builder, contractor, subcontractor or developer responsible for the design,

development, construction, repair, improvement, inspection, conversion and/or sale of real and personal property, including the Subject Properties.

- 12. Plaintiffs are informed and believe, and thereon allege, that at all times material hereto, Defendants, and each of them, were doing business as contractors, and at all times mentioned herein were engaged in the business of development, construction, improvement, conversion and/or sale of real and personal property, including the Subject Properties.
- 13. Plaintiffs do not know the true names and capacities of Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these Defendants by flotitious names. Plaintiffs are informed and believe, and thereon allege, that each of these fictitiously named Defendants is responsible in some actionable manner for the defective and negligent design, engineering, architecture, development, construction, repair, supplying of improper materials and performance of inspections at the Subject Properties, or in some other actionable manner was an integral part of the systematic development, construction and marketing of dwellings at the Subject Properties, and therefore Plaintiffs' damages hereafter alleged were proximately caused by their conduct. Plaintiffs will amend this complaint when the true names and capacities of such Defendants are ascertained.
- 14. Plaintiffs are unaware of the basis of liability as to some or all of the fictitious. Defendants sued herein as DOES but believe and thereon allege that the liability arises out of the same general facts that are set forth herein. Plaintiffs will move to amend this Complaint to assert the theories of liability against Defendants if and when they are ascertained.
- 15. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, each Defendant was the agent and employee of its co-Defendant and in doing the things herein alleged, was acting within the course and scope of his/her/its authority as such agent and employee and each Defendant has ratified and approved the acts of his/her/its agents and employees.
- 16. Each and every Defendant owed a duty to Plaintiffs, as a reasonably foreseeable purchaser of the Subject Property, to use reasonable care in the performance of the tasks related to the planning, development, creation, improvement, design, construction, repair, inspection, promotion, marketing, and sale of the property.
 - 17. Commencing in 2004, and continuing thereafter, Defendants jointly developed and

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constructed, marketed and sold a planned unit development consisting of approximately twenty-eight units, known as Bear Creek, located in south Reno, State of Nevada.

- 18. Defendants sold the Subject Residences to the Plaintiffs and/or their predecessors in interest without disclosing material facts about the Subject Residences.
- Commencing on or about 2004, and continuing thereafter, Defendants were aware of the above-listed problems in Bear Creek.
- 20. Defendants intended that the dwellings and their component parts would be purchased and used without inspection for defects of the type described hereafter.
- 21. When marketed, purchased and sold, the dwellings in Bear Creek were defective and unsafe and/or unsuitable for their intended uses and purposes in numerous particulars.
- 22. The foregoing defects were created by Defendants, and said defects were negligently, recklessly, willfully and/or fraudulently hidden, concealed, misrepresented and disguised from Plaintiffs so that Plaintiffs did not discover, and could not have discovered with reasonable diligence, the existence of any said defects until Plaintiffs undertook, at their expense, investigations performed by professionals retained by Plaintiffs.
- 23. At various times, Defendants have refused to make repairs in response to inquiries by Plaintiffs, claiming that the condition of the homes was normal and that Plaintiffs were responsible for defects in their homes, if any.
- 24. Plaintiffs have had the homes inspected by construction experts. Said inspections have revealed severe deficiencies as alleged and described above.
- 25. Pursuant to NRS § 40.645, on or about April 6, 2012, the Drosts directed notice to Defendants, and each of them, advising of constructional defects present within the Subject Property.
- 26. Pursuant to NRS § 40.645, on or about April 6, 2012, McGuirk directed notice to Defendants, and each of them, advising of constructional defects present within the Subject Property.
- 27. Pursuant to NRS § 40.645, on or about June 1, 2012, the Hornbacks directed notice to Defendants, and each of them, advising of constructional defects present within the Subject Property.
 - 28. Pursuant to NRS § 40.645, on or about July 31, 2012, Cage/Iaconis directed notice

 to Defendants, and each of them, advising of constructional defects present within the Subject Property.

- 29. Due to the defects alleged herein, Plaintiffs are entitled to the cost of repairs that are necessary to cure any constructional defect that the contractor(s) failed to cure, the reasonable expenses of temporary housing reasonably necessary during the repair, the loss of use of all or part of the residence, the reasonable value of other property damaged by the construction defect, and additional costs, fees, and interest, in excess of \$50,000.00, entitling this action to be exempt from arbitration pursuant to Nevada Rules of Arbitration Rule 3.
- 30. As a further proximate result of said defects, Plaintiffs have sustained property damage to the Subject Properties which must be repaired. These defects are causing or likely will cause additional injury to person and/or property. Plaintiffs have also suffered, and will continue to suffer, loss of use and enjoyment of the dwelling for extended periods of time.

FIRST CLAIM FOR RELIEF

(Breach of Contract and Express Warranties)

- 31. Plaintiffs herein reallege each and every allegation as contained above and hereby incorporate them by this reference as if fully set forth herein.
- 32. On various dates beginning in 2004 and continuing thereafter, each of the Plaintiffs, or their predecessors in interest, entered into contracts in writing with Defendants for the purchase of individual units in Bear Creek.
- 33. At the time of negotiation of said contract between Plaintiffs and Defendants, but before said contract was executed, Defendants, as an inducement to Plaintiffs, and as part of the basis of the bargain of the parties that culminated in the execution of the purchase contract, expressly warranted to Plaintiffs that said dwellings were properly constructed in conformance with the approved plans and specifications and applicable building codes, ordinances and standards in the construction industry for such work, and that said structure was structurally sound and safe, and would remain so.
- 34. Plaintiffs purchased said dwellings in reliance on the above express warranties, affirmations of fact, and promises made by Defendants. Plaintiffs have performed all conditions,

(Page 6 of 11)

covenants and promises on its part to be performed, without limitation to include payment of the purchase price and taking possession of the Subject Properties.

- 35. Due to the deficiencies alleged above, Defendants have materially breached said express warranties. Plaintiffs noticed Defendants of said breach of warranties, and Defendants have refused, and continue to refuse, to remedy all of the identified and known defects.
- 36. As a direct and proximate result of the breach of the oral and written express warranties by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages and economic loss stemming from the above described list of defects. This list of defects is only partial, and Plaintiffs will seek leave to amend this Complaint or will by Court Order prepare a final list of defects describing the full nature and extent of defects at the Subject Properties once ascertained,
- 37. Plaintiffs have suffered damages in an amount in excess of \$10,000 but not fully known. Plaintiffs will seek leave of court to amend this complaint to establish the precise amount of such damages at trial, according to proof. Plaintiffs are entitled to all damages set forth at NRS 40.655, including attorneys fees as it was necessary for Plaintiffs to retain counsel to prosecute these claims.

SECOND CLAIM FOR RELIEF

(Breach of Implied Warranties of Pitness, Merchantability, Quality and Habimbility)

- 38. Plaintiffs reallege each and every allegation as contained above and hereby incorporate them by this reference as if fully set forth herein.
- 39. Defendants, and each of them, by developing, constructing and marketing said residences impliedly warranted that said dwellings would be habitable, would be of good and merchantable quality, and would be of at least a quality as would be fit for the ordinary purposes for which such dwellings were to be used, having been constructed with the necessary work, labor, supervision and materials in accord with the plans and specifications and other applicable building codes. Further Defendants, and each of them, impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.
 - 40. Plaintiffs purchased said dwellings in reliance on the above implied warranties made

by Defendants. Plaintiffs have performed all conditions, covenants and promises on their part to be performed without limitation to include payment of the purchase price and taking possession of the Subject Properties.

- 41. Due to the deficiencies alleged above, Defendants have materially breached suid implied warranties. Plaintiffs notified Defendants of said breach of warranties, and Defendants have refused, and continue to refuse, to remedy all of these known and described defects. Plaintiffs will seek leave to amend this complaint when the full nature and costs of the replacements and repairs are ascertained.
- 42. As a direct and proximate result of the breach of the implied warranties by Defendants and each of them as herein above alleged, Plaintiffs suffered injury to the Subject Properties and economic loss. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, including attorney's fees as it was necessary for Plaintiffs to relain counsel to procedute these claims.

THURD CLAIM CORRESPON

(Neullgence and Negligence Per Se)

- 43. Plaintiffs licrein reallege each and every allegation as contained above and hereby incorporate them by this reference as if fully set forth herein.
- 44. Plaintiffs alleges that Defendants, and each of them, knew or should have known that if the subject structures and subject premises were not properly or adequately designed, engineered, marketed, supervised and/or constructed, that the owners and users would be substantially damaged thereby, and that the subject structures would be defective and not of merchantable quality.
- At all times mentioned herein, Defendants, and each of them, had a duty to exercise ordinary care in the conduct of their business and affairs so as to avoid reasonably foresecable injury to users and purchasers of the subject properties and structures, and knew or should have foreseen with reasonable certainty that purchasers and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of them, failed to perform their duty to cause the subject premises and subject structures to be designed, engineered and completed in a proper and workmanlike manner and fashion.

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- 46. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each of them, brenched the above standard of care when they regligently, carelessly and recklessly, designed, developed, constructed and marketed the subject residences resulting in numerous defects as alleged herein.
- 47. Plaintiffs are informed and believe, and thereon allege, that at all times relevant hereto, Defendants, and each of them, knew or through the exercise of reasonable care and diligence should have known of such defective, dangerous and hazardous conditions and that Defendants thereafter failed to warn Plaintiffs of such conditions or to protect Plaintiffs therefrom.
- Plaintiffs are informed and believe, and thereon allege, that at all times relevant hereto, there existed codes, standards, and statutes, whether by building, mechanical or other standards that mandated compliance with minimum standard of care for the installation and construction of homes such as the subject residences.
- Plaintiffs are informed and believe, and thereon allege, that at all times relevant hereto, that particular provisions of these above mentioned codes, standards, and statutes were intentionally adopted to protect a class of persons to which the Plaintiffs belong.
- 50. Plaintiffs are informed and believe, and thereon alloge, that at all times relevant hereto, the injuries suffered by Plaintiffs, as alleged herein, are the type of injuries that the above mentioned provisions were intended to prevent.
- Defendants as builder, contractors, individuals, general contractor or through subcontractors failed to properly construct, supervise and inspect construction on the properties so as to eliminate or mitigate property defects directly or indirectly caused by the failure to use workmanlike standards, or comply with the applicable codes, standards, and statutes.
- Plaintiffs are informed and believe, and thereon allege, that at all times relevant hereto, the Defendants knew, or through the exercise of reasonable case and diligence, should have known of such defective, dangerous, and hazardous conditions and that Defendants failed to warn Plaintiffs of such conditions or to protect Plaintiffs therefrom.
- 53, As a direct and proximate result of the negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them,

(Page 9 of 11

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Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the Subject Properties and subject structures, but will establish the same at trial according to proof, including attorney's fees as it was necessary for plaintiff to relain counsel to prosecute these claims.

FOURTH CLAIM FOR RELIEF

(Negligent Misrepresentation and Negligent Frillure to Disclose)

- 54. Plaintiffs herein reallege each and every allegation as contained above and hereby incorporate them by this reference as if fully set forth herein.
- 55. Plaintiffs are informed and believe, and thereon allege, that at all times relevant hereto, the Defendants, through their activities in inspecting, building, and constructing Plaintiffs' dwellings, had knowledge of material facts affecting the value of said dwellings and appurtenances, including but not limited to construction defects.
- 56. Plaintiffs are informed and believe, and thereon alloge, that at all times relevant hereto, that Defendants owed to Plaintiffs a duty to disclose all conditions potentially having averse impact upon the Subject properties, their value, stability, as well as their safety. Plaintiffs allege that Defendants also owed Plaintiffs a duty to represent with reasonable accuracy the actual conditions, quality and significant factors concerning value, safety and stability of the Subject Properties. As the builders, developers, marketers, and sellers of the Subject Properties, Defendants held a special relationship of trust and confidence with potential buyers such that duties of disclosure and accurate representations were hearmbent upon Defendants.
- 57. Plaintiffs are informed and believe, and thereon allege, that at all times relevant licreto, that Defendants, in breach of the duties set forth above, negligently misrepresented and/or failed to disclose to Plaintiffs facts and information regarding the defective conditions known to Defendants and affecting the Subject Properties, as described above.
- Plaintiffs are informed and believe, and thereon allege, that at all times relevant hereto, that Defendants knew or should have known that Plaintiffs would purchase the Subject Properties and that Defendants, who have superior knowledge and expertise as builders, developers, marketers, and sellers of the Subject Properties, were required to correct any such defects in the

(Page 10 of 11)

Subject Properties and were further required not to sell such defective property, and were also required to make such defects in the Subject Properties known to Plaintiffs as prospective purchasers.

- 59. Had Plaintiffs known the undisclosed facts, Plaintiffs would either have further investigated the condition and integrity of the Subject Properties or would have declined to purchase the Subject Properties, and Plaintiffs would not have relied, as they did, upon Defendants and each of their express or implied representations that the Subject Properties was generally in good condition and fit for the intended use and that all repair work and/or renovations had been successfully completed.
- As a direct and proximate result of the breach of the implied warranties by Defendants and each of them as herein above alleged, Plaintiffs suffered injury to the Subject Properties and economic loss. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, including attorneys fees as it was necessary for Plaintiffs to retain counsel to prosecute these claims.

WHEREFORE, Plaintiffs pray for judgment against Defendants and each of them, as follows:

- 1. For general and special damages according to proof, in excess of \$10,000.00 (ten thousand dollars).
 - 2. For attorneys' fees and costs according to proof.
- For prejudgment and post-judgment interest on all sums awarded, according to proof at the maximum legal rate.
 - 4. For costs of suit incurred herein.

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(Page 11 of 11) 5. For all damages pursuant to NRS 40.600 through NRS 40.695. For such other and further relief as the Court may deem just and proper. 6. **AFFIRMATION PURSUANT TO NRS 239B.030** The undersigned hereby affirms that this document does not contain the social security number of any person. Dated this 23day of October • 7 Jeff Marrieur, Esq. Nevada State Bar No. 9197 9628 Prototype Court Reno, Nevada 89521 (775) 786-7445 Attorneys for Plaintiffs 1.1

(Page 2 of

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'à-		
1	limited-liability company; OVERHEAD DOOR CO. OF SIERRA NEVADA/RENO, a Nevada corporation;	
2	PENINSULA FLOORS, INC., a California corporation; SCARECROWLATH & PLASTER, INC., a Nevada	-
3	corporation dba SCARECROW STUCCO STONE; WES CONSTRUCTION COMPANY, INC., a Nevada	
4	corporation; DOES 1 through 50; and Corporations	l
5	A - Z, inclusive,	1
6	Third-Party Defendants.	
7	SUMMONS	
B	TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST	
	YOU WITHOUT BEING HEARD UNLESS YOU <u>RESPOND IN WRITING</u> , WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.	
9	A civil complaint has been filed by the Plaintiff against you for the relief as set forth in that document	1
10	(see Complaint). When service is by publication, add a brief settlement of the object of the action. See Rules of Civil Procedures, Rule 4(b). The object of this action is: Construction Defect	
1)	If you intend to defend this lawsuit, you must do the following within 20 days after	
13	service of this summons, exclusive of the day of service.	
19	a. File with the Clerk of Court, whose address is shown below, a formal written	
1Â	answer to the complaint, along with the appropriate filing fees, in accordance with the rules of the Court; and;	
15	b. Serve a copy of your answer upon the attorney or plaintiff who name and address	1
16	is shown below.	
17	2. Unless you respond, a default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the complaint.	2
18	DATED this	
19	Issued on behalf of Defendant/	
20	Third-Party Plaintiff's attorney: JOEN GROUNWINGS	
1	THUS SHE ESTABLES	
2)	Name: Philip L. Kreitlein, Esq. By:	
22	Address: 470 E. Phimb Ln., Suite 310 Deputy Clark, Reno, NV 89502 Second Judicial District Court	
2,3	Phone Number: 775-786-2222 75 Couty Street 1 Reno, Nevada 89501	
24	ANALYS CONTRACTOR OF THE STATE	
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	KREITIÆIN JAW GROUP, LTD.	
1	470 E PILLUMB LAME - SUITE 310, REHO, 31V 8V3002 (773) 786-2223 - FAX (773) 786-1473 2	

Exhibit 45

Exhibit 45

(Page 3 of Tay FILED Electronically 12-21-2012:01:55.42 PM Joby Orduna Hastings Clerk of the Court 1 Code: 4180 Transaction # 3423415 Philip L. Kreitlein, Esq. Nevada Bar No. 005394 KREITLEIN LAW GROUP, LTD. 470 E. Plumb Lanc, Suite 310 Reno, Neyada 89502 (775) 786-2222 Attorney for Defendant SILVERWING DEVELOPMENT 5 6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA 7 IN AND FOR THE COUNTY OF WASHOE 8 海ボネカネ ADAM DROST; DEANNE DROST; SANDRA M¢GUIRK; DALE W. HORNBACK; KAREN I. HORNBACK; RYAN HORNBACK; ROY B. CÁGE, JR.; TERESA-MARIE IACONIS, Case No.: CV12-02656 10 Dept. No.: 15 12 Plaintiffs 13 SILVERWING DEVELOPMENT, a Nevada corporation; and DOES 1 to 50, inclusive, 15 Defendants. 16 17 SILVERWING DEVELOPMENT, a Nevada Corporation, 18 Third-Party Plaintiff, 19 ALCAL SPECIALTY CONTRACTING, ING., a
Nevada corporation don ARCADE INSULATION;
PETER I, PAULOS, individually and don ALL
SEASONS GLASS; ALPINE CONCRETE
CONSTRUCTION, INC., a Nevada corporation;
BECKER GENERAL CONTRACTORS, INC.,
a Nevada corporation; BLUR RIBBON STAIRS,
INC., a California corporation; CAVALLERO
HEATING AND AIR CONDITIONING, INC.,
a Nevada corporation; CUS TOM DRYWALL
SYSTEMS, INC., a Nevada corporation; DESERT
ROOFING INCORPORATED, a Nevada corporation;
DIVERSIFIED PAINTING, INC., a Nevada corporation;
HIGH SIERRA MARBLB, INC., a Nevada corporation;
J.A.G. WIRE ELECTRIC, INC., a Nevada corporation; 20 22 23 24 25 27 KRETTLEIN LAN GROUP, LTD. 470 R PLUMPI LAME + SUITE 310, RENO, NV 19.03 (775) 166-1222 - 7AX (775) 766-1478

(Page 4 of 14)

I.P. CONSTRUCTION COMPANY, LLC, a Nevada limited-liability company; OVERHEAD DOOR CO. OF SHEREA NEVADA/RENO, a Nevada corporation; PENINSULA FLOORS, INC., a California corporation; SCARECROWLATH & BLASTER, INC., a Nevada corporation dos SCARECROW STUCCO STUNIE; WES CONSTRUCTION COMPANY, INC., a Nevada corporation; DOES 1 through 50; and Corporations A - Z, inclusive,

Third-Party Defendants.

DEVELOPMENT'S THIRD-PARTY PLAINTEPT SILVER WING DEVELOPMENT'S THIRD-PARTY COMPLAINT

COMES NOW Defendant/Third-Party Plaintiff SILVER WING DEVELOPMENT (hereinafter "SILVER WING"), by and through its attorneys, KREITLEIN LAW GROUP, LTD., and hereby alleges as follows:

GENERAL ALLEGATIONS

- 1. SILVERWING refers to an incorporates herein each and every allegation made by Plaintiffs' Complaint (currently on file herein) for the sole purpose of establishing the fact that the Plaintiffs have commenced suit against SILVERWING, but without admitting, in whole or in part, any of the allegations contained in Plaintiffs' Complaint.
- At all times relevant herein, ALCAL SPECIALTY CONTRACTING, INC. dba ARCADE INSULATION; ALL SEASONS GLASS; ALPINE CONCRETE CONSTRUCTION, INC.; BECKER GENERAL CONTRACTORS, INC.; BLUE RIBBON STAIRS, INC.; CAVALLERO HEATING AND AIR CONDITIONING, INC.; CUSTOM DRYWALL SYSTEMS, INC.; DEBARD PLIMBING, INC.; DESERTROOFING INCORPORATED; DIVERSIFIED PAINTING, INC.; HIGH SIERRA MARBLE, INC.; J.A.G. WIRE ELECTRIC, INC.; J.P. CONSTRUCTION COMPANY, LLC; OVERHEAD DOOR CO. OF SIERRA NEVADA/RENO; PENINSULA FLOORS, INC.; SCARECROW LATH & PLASTER, INC., dba SCARECROW STUCCO STONE; WES CONSTRUCTION COMPANY, INC.; DOES 1 through 50; and Corporations A Z, inclusive (hereinofter, collectively, "Third-Party Defendants") were either individuals, sole proprietorships, partnerships, registered professionals, corporations or other legal entities that have been issued contractor's licenses by the State of Nevada to do business in the County of Washoe, State of Nevada,

ICRESTI, EIN LAW GROUP, LTD. 4902, PLIMO LANE - SIATE 310, MGRO, NY 19201 [75] 246-1271 - FAX (715) 244-2474

- 3. The Third-Party Defendants, and each of them, were developers, contractors, suppliers, subcontractors, and/or design professionals who, pursuant to the agreements between each of the Third-Party defendants and SILVERWING, performed construction-related activities for SILVERWING at the Subject Property, and were material suppliers to SILVERWING, or were one of SILVERWING's subcontractors who supplied materials and/or items which were installed into and/or became a part of the Subject Property.
- 4. SILVERWING alleges that the Third-Party Defendants may have acted as after egos of other individuals, sole proprietorships, partnerships, registered professionals, corporations, or other legal entities, and that the true names and capacities of any such persons or entities for which Third-Party Defendants acted as after egos are currently unknown to SILVERWING; therefore, SILVERWING will seek leave of court to amend this Third-Party Complaint to set forth the true names and capacities of any after ego entities and state appropriate charging allegations, if and when that information is ascertained.
- 5. SILVERWING Is informed and believes and thereon alleges that the true names and capacities, whether individual, corporate, associate, or otherwise of DOES 1-50; Corporations A Z inclusive, are unknown to SILVERWING which, therefore, sues said fictitions names. Third-Party Defendants designated as "DOES" and "Corporations A Z" are responsible in some manner as an entity performing construction-related activities and providing materials for the construction of the Subject Property and are responsible for the events and happenings described in Plaintiffs' Complaint and this Third-Party Complaint, which proximately caused damages to SILVERWING as alleged herein. SILVERWING is informed and believes and thereon alleges that each of the Third-Party Defendants designated as DOES and Corporations A Z, in some manner, performed work, installed, designed, constructed, and/or supplied materials to the Subject Property pursuant to agreements between SILVERWING and Third-Party Defendants, and each of them, or otherwise. SILVERWING will amend

KREITLEDV LAW GROUP, LTD. 470 K. PLUMB LAML - SUITE 310, RENO, NY 19503 (173) 180-2233 - SIX (773) 786-1478

(Page 6 of 14)

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this Third-Party Complaint when the true names and capacities of such Third-Party Defendants are ascertained.

- 6. The work being done and/or materials supplied by each of the Third-Party Defendants was pursuant to contracts, purchase order, and/or agreements between Third-Party Defendants and SILVERWING and/or another Third-Party Defendant to complete construction work called for by SILVERWING pursuant to plans and specifications for the Subject Property referenced above.
- 7. SILVERWING has been sucd by the Plaintiffs as set forth in the Complaint currently on file in the District Court of Nevada, County of Washoe, Case Number CV12-02656. Plaintiffs in this case have alleged defective or deficient design or construction, giving rise to their claims for relief under NRS 40.600 through 40.695.
- 8. The causes of action pled by Plaintiffs against SILVERWING include 1) Breach of Contract and Breach of Express Warranties, 2) Breach of Implied Warranties of Pitness, Merchantability, Quality and Habitability, 3) Negligence and Negligence Per Se, and 4) Negligent Misrepresentation and Negligent Fallure to Disclose.
- 9. While working at the site, Third-Party Defendants, according to the allegations of Plaintiffs' Complaint, acted in a negligent and/or careless manner, committed negligence per se, performed acts which resulted in breaches of warranties to Plaintiffs and/or others including, but not limited to, those of fimess, merchantability, and habitability, designed, manufactured, produced, and/or supplied defective products in an unreasonably dangerous and defective condition and/or committed acts of negligence, which allegedly injured and/or caused damages to Plaintiffs, as alleged in Plaintiffs' Complaint. Said acts have also resulted in damages to SILVERWING by subjecting SILVERWING to suit by Plaintiffs.

FIRST CLAIM FOR RELIEF (Negligence)

- 10. SILVERWING repeats and re-alleges the allegations of paragraphs 1 through 9 of this Third-Party Complaint as though fully set forth herein.
- 11. Third-Party Defendants, and each of them, owed a contractual and/or legal duty to SILVERWING and others, including Plaintiffs, to exercise due and reasonable care in the design,

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construction, and/or development of the Subject Property. Third-Party Defendants also had a legal duty to abide by standards and laws including local construction practices, industry standards, governmental codes and restrictions, manufacturer requirements, Washoe County Building Codes, product specifications and the laws of the State of Nevada.

- 12. If the Subject Property is defectively designed, developed, and/or constructed, Third-Party Defendants, and each of them, are responsible for such defects in that they failed to act reasonably in the design, development, and construction of the Subject Property thereby breaching their duty owed to SILVERWING and others, including Plaintiffs.
- 13. If the Subject Property is defectively designed, developed, and/or constructed, the acts and umissions of Third-Party Defendants, and each of them, were the direct and proximate cause of any and all damages incurred by SILVERWING and Plaintiffs.
- 14. SILVERWING is informed and believes and, on that basis, alleges that Plaintiffs' damages, if any, were proximately caused by Third-Party Defendants, and each of them, and that Third-Party Defendants are liable for the damages sought by Plaintiffs in their Complaint.
- 15. The breaches of the aforementioned duties by each Third-Party Defendant, as described in the preceding paragraphs, were and are the actual and proximate cause of damages to SILVERWING in excess of \$10,000.00.
- 16. It has been necessary for SILVERWING to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18,010) and the contractual provisions of the agreements.

SECOND CLAIM FOR RELIEF (Breach of Express and Implied Warranties)

- 17. SIVLERWING repeats and re-alleges the allegations of paragraphs 1 through 16 of this Third-Purvy Complaint as though fully set forth herein.
- 18. SILVERWING is informed and believes and thereon alleges that pursuant to contracts, purchase orders, and/or agreements between SILVERWING and the Third-Party Defendants, that Third-Party Defendants impliedly and expressly warranted that their work would be done in a good,

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- 19. SILVERWING relied upon said warranties and helieved that said work was performed pursuant to said agreements and would be of a first class and workmanlike manner for its intended use and purpose.
- 20. SILVER WING is informed and believes and thereon alleges that Third-Party Defendants, and each of them, breached said agreements as has been alleged by Plaintiffs in the underlying action herein and that if numerous alleged deficiencies exist at the site as set forth in Plaintiffs' Complaint, then Third-Party Defendants, and each of them, were the direct and proximate cause of any and all damages incurred by SILVERWING and Plaintiffs. Said alleged deficiencies are incorporated herein by reference.
- 21. As a proximate result of the breach of implied and express warranties by Third-Party Defendants, and each of them, SILVERWING alleges that it will suffer damages in a sum equal to any sums paid by way of settlement or any alternative judgment rendered against SILVERWING in the underlying action based upon Plaintiffs' Complaint.
- 22. This Third-Party Complaint will serve as additional subsequent notice of such conditions and SILVERWING is informed and believes and thereon alleges that Third-Party Defendants, and each of them, decline to acknowledge their responsibilities to repair the alleged deficiencies as referenced above.
- 23. The breaches of the aforementioned warranties by each Third-Party Defendant, as described in the preceding paragraphs, were and are the actual and proximate cause of damages to SILVERWING in excess of \$10,000.00.
- 24. It has been necessary for SILVERWING to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover attorneys' fees and costs incurred herein pursuant to Nevada law (NRS 18.010) and the contractual provisions of the agreements.

THIRD CLAIM FOR RELIEF (Implied Indomnity)

25. SILVERWING repeats and re-alleges the allegations of paragraphs 1 through 24 of this Third-Party Complaint as though fully set forth herein.

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- 26. SILVERWING is informed and believes and thereon alleges that SILVERWING entered into written, oral, and/or implied agreements with Third-Party Defendants.
- 27. By reason of the foregoing, if Plaintiffs recover against SILVERWING, then SILVERWING is entitled to implied contractual indemnity from Third-Porty Defendants, and each of them, for injuries and damages sustained by Plaintiffs, if any, for any sums paid by way of settlement, or in the alternative, judgment rendered against SILVERWING in the underlying action based upon Plaintiffs' Complaint and/or any cross-claims filed herein.
- 28. It has been necessary for SILVERWING to retain legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

FOURTH CLAIM FOR RELIEF (Breach of Contract)

- 29. SILVERWING repeats and re-alleges the allegations of paragraphs 1 through 28 of this Third-Party Complaint as though fully set forth herein.
- 30. SILVERWING is informed and believes and thereon alleges that it entered into agreements with Third-Party Defendants.
- 31. SILVERWING has fully performed all conditions, covenants, and promises required by it to be performed in accordance with the terms and conditions of said agreements.
- 32. SILVERWING is informed and believes and thereon alleges that Third-Party Defendants, and each of them, breached said agreements by failing to perform their work (a) in compliance with applicable standard of care, (b) in a good workmanlike manner, and © in a manner that was consistent with their legal obligations as set forth in the various agreements.
- 33. Further, SILVERWING is informed and believes and thereon alleges that Third-Party Defendants breached their agreements by (a) failing to defend and indemnify SILVERWING as a result of Plaintiffs' Complaint in the manner required under the agreements, (b) failing to name SILVERWING as an additional insured in the manner required under the agreements, and (c) by failing to take appropriate steps to make sure that appropriate insured endorsements and insurance coverage had been obtained.

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- 34. As a direct and proximate result of Third-Party Defendants' breaches of contract, SILVER WING has been damaged in a sum which is currently unascertainable. SILVER WING will seek leave of court to amend its Third-Party Complaint once such sum can be reasonably ascertained.
- 35. As a direct and proximate result of the breaches of contract with Third-Party Defendants, and each of them, including DOES 1-50 and Corporations A Z, as alleged, SILVER WING has incurred and continues to incur costs and expenses, including, but not limited to, litigations costs, attorneys' fees and consultants' fees in connection with the Complaint filed by Plaintiffs in the action on file herein to the general damage of SILVER WING, as will be shown according to proof at the time of trial of this matter. SILVER WING will seek recover of legal fees incurred in defending SILVER WING.

FIFTH CLAIM FOR RELIEF (Equitable Indomnity)

- 36. SILVERWING repeats and cr-alleges the allegations of pm/agraphs 1 through 35 of this Third-Party Complaint as though fully set forth herein.
- 37. SILVERWING is informed and believes and thereon alleges that any and all defects and damages alleged by Plaintiffs in their Complaint are all defects and damages to, or destruction of, property and SILVERWING is further informed and believes and thereon alleges that any and all damages were caused by Third-Party Defendants, and each of them, arising out of and in connection with the performance of Third-Party Defendants' operations and work at the Subject Property.
- 38. In equity and good conscience, if Plaintiffs recover against SILVER WING herein, then SILVER WING is entitled to an equitable indemnity apportionment of the liability and contribution among and from the Third-Party Defendants, and each of them, according to their respective faults for the injuries and damages allegedly sustained by Plaintiffs, if any, by way of sums paid by settlement, or in the alternative, judgment rendered against SILVER WING based upon Plaintiffs' Complaint.
- 39. It has been necessary for SILVERWING to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

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SIXTH CLAIM FOR RELIEF (Contribution)

40. SILVERWING repeats and re-alleges the allegations of paragraphs 1 through 39 of this Third-Party Complaint as though fully set forth herein.

- 41. Based upon the acts and/or omissions of Third-Party Defendants, and each of them, if a judgment is rendered on behalf of Plaintiffs, SILVERWING is entitled to contribution from each of the Third-Party Defendants in an amount proportionate to the amount of negligence and/or fault attributable to each of the Third-Party Defendants.
- 42. It has been necessary for SILVERWING to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

SEVENTH CLAIM FOR RELIEF (Apportionment)

- 43. SILVER.WING repeats and re-alleges the allegations of paragraphs 1 through 42 of this Third-Party Complaint as though fully set forth herein.
- 44. SILVERWING is entitled to an apportionment of liability between Third-Party Defendants, and each of them.
- 45. It has been necessary for SILVERWING to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18,010) and the contractual provisions of the agreements.

EIGHTH CLAIM FOR RELIEF (Express Indemnity)

- 46. SILVER WING repeats and re-alleges the allegations of paragraphs 1 through 45 of this Third-Party Complaint as though fully set forth berein.
- 47. Pursuant to the terms of the agreements entered into between SILVERWING and Third-Party Defendants, SILVERWING has defense and indemnification rights from the Third-Party Defendants, and each of them.

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49. It has been necessary for SILVERWING to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. SILVERWING is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

NINTH CLAIM FOR RELIEF (Declaratory Relief)

- 50. SILVERWING repeats and re-alleges the allegations of paragraphs I through 49 of this Third-Party Complaint as though fully set forth herein.
- 51. A dispute has arisen and actual controversy now exists between SILVERWING and Third-Party Defendants herein, and each of them, in that SILVERWING contends that it is entitled to indemnity, contribution and damages on several legal theories from Third-Party Defendants, and each of them.
- 52. SILVERWING desires a judicial determination as to the respective rights and obligations of SILVERWING and Third-Party Defendants in connection with the matter herein alleged and a judgment in favor of SILVERWING as to any obligation owed by each Third-Party Defendant to SILVERWING herein.

TENTH CLAIM FOR RELIEF (Declaratory Relief re: Duty to Defend)

- 53. SILVERWING repeats and re-alleges the allegations of paragraphs 1 through 49 of this Third-Party Complaint as though fully set forth herein.
- 54. Third-Party Defendants, and each of them, have a present duty to defend SILVER WING pursuant to Nevada law and as a result of the assertion of a claim and/or loss arising our of the work of the Third-Party Defendants, and each of them. SILVER WING has a present legal right to provided a defense by the Third-Party Defendants, and each of them.
- 55. A dispute has arisen and an actual controversy now exists between SILVERWING and Third-Party Defendants, and each of them, in that SILVERWING contends that they are entitled to a

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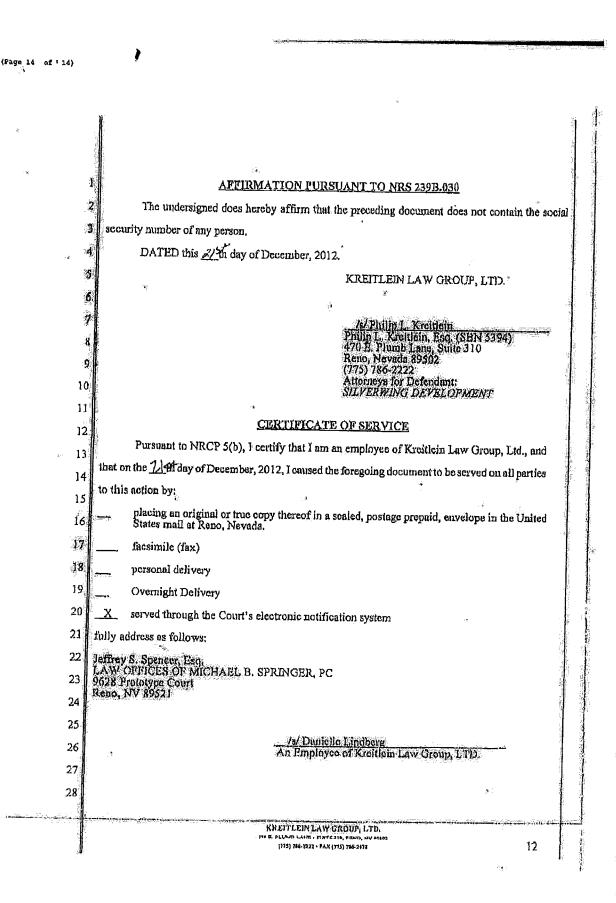


Exhibit 46

Exhibit 46

FILED Electronically 07-09-2012:05:09:57 PM Joey Orduna Hastings 1 \$1425 Clerk of the Court Duane E. Shinnick, Esq. Transaction # 3068393 Bar No. 7176 Eric Ransavage, Esq. 3 Bar. No. 8876 Emily R. Dow Esq. Bar No. 10570 SHINNICK, RYAN & RANSAVAGE P.C. 6165 Ridgeview Court, Suite B Reno, Nevada 89509 Tel: 775-826-1600 Fax: 775-826-1626 dshinnick@ssllplaw.com 7 eransavage@ssllplaw.com Attorneys for Plaintiffs g 10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE 11 COUNTY OF WASHOE 12 ROGER M. LINO, individually; DONALD M.) CASE NO. CV11-03683 13 and DEBORAH M. BLEVINS, individually; JUDGE: DAVID HARDY MICHAEL PEARL, individually; JOSEPH R. 14 and BETHANY L. HENRY, individually: DIVISION: D15 1.5 GORDON L. and BARBARA A. QUEEN, individually; STEVEN M. SCHULTZ, 16 PLAINTIFFS' FIRST AMENDED individually; MICHAEL and DIANA CONSTRUCTION DEFECT COMPLAINT CAPSOUTO, individually; STEVEN W. and 17 ANDREA NICHOLAS, individually; JUAN L. 18 GONZALES, JR., individually; RONALD KLONICKE, individually; PETER and 19 BEVERLY PETZING, individually; HARRY K. RICE, JR. and CONSTANCE L. RICE, 20 individually; C. BRAD and NEAOMI GEORGE, 21 individually; KAREN LAREECE BARTON, individually; KIMBERLY BISHOP, individually; MICHAEL and JUDITH A. GARCIA, individually; JOHN and KATHRYN 23 GILBERTSON, individually: OWEN and 21 SONJA HARDY, individually; KRIS KALTENBACHER, individually: HERBERT 25 and MIRNA MELENDEZ, individually; 26 RANDALL C. MILLER, individually; LORENZO and IRENE RIOS, individually; 27 LESLIE C. SMITH, individually: BERT and ANDREA SOFFIOTTO, individually; JOHN and LAUREN TEGINS, individually; NELSON [00113328,DOC] COMPLAINT FOR DAMAGES

VELASQUEZ and YOLANDA SOTO, individually; and ROES 22-600, inclusive Plaintiffs,

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LAKEMONT COPPER HILLS, LLC, a Delaware Limited Liability Company; LAKEMONT HOMES NEVADA, INC., a

Nevada Corporation; and DOES 1 through 500, inclusive,

Defendants.

Please take notice that Plaintiffs hereby file this FIRST AMENDED CONSTRUCTION DEFECT COMPLAINT pursuant to the pursuant to N.R.C.P. 15(a). This First Amended Complaint is being filed in order to identify by name LAKEMONT HOMES NEVADA, INC as a DOE Defendant and to identify by name the following Plaintiff homeowners:

ROE	PLAINTIFF	ADDRESS
1	KAREN LAREECE BARTON	5905 Ingleston Dr.
4		Sparks, NV 89436
2	KIMBERLY BISHOP	2459 Burtin Dr.
i La compagnazione e	Norman (Armanastrato) antorranasta hama, mulinya ya yay ya ya k	Sparks, NV 89436
3	MICHAEL GARCIA	5966 Ingleston Dr.
4	JUDITH A. GARCIA	Sparks, NV 89436
5	JOHN OILBERTSON	5918 Ingleston Dr.
6	KATHRYN GILBERTSON	Sparks, NV 89436
7	OWEN HARDY	5885 Ingleston Dr.
8	SONJA HARDY	Sparks, NV 89436
9	KRIS KALTENBACHER	5858 Ingleston Dr.
	#	Sparks, NV 89436
10	HERBERT MELENDEZ	2327 Dodge Dr.
11	MIRNA MELENDEZ	Sparks, NV 89436
12	RANDALL C. MILLER	5910 Ingleston Dr.
		Sparks, NV 89436
13	LORENZO RIOS	5834 Ingleston Dr.
14	IRENE RIOS	Sparks, NV 89436
1.5	LESLIE C. SMITH	2401 Lawry Dr.
		Sparks, NV 89436
16	BERT SOFFIOTTO	5935 Ingleston Dr.
17	ANDREA SOFFIOTTO	Sparks, NV 89436
18	JOHN TEGINS	5915 Ingleston Dr.

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COMPLAINT FOR DAMAGES

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19	LAUREN TEGINS	Sparks, NV 89436
20	NELOSN VELASQUEZ	2317 Dodge Dr.
21	YOLANDA SOTO	Sparks, NV 89436

COMPLAINT FOR DAMAGES

Come Now Plaintiffs,

PLAINTIFF	ADDRESS
ROGER M. LINO	2414 Lawry Dr.
	Sparks, NV 89436
DONALD M. BLEVINS	2385 Dodge Dr.
DEBORAH M. BLEVINS	Sparks, NV 89436
ļ	5975 Ingleston Dr.
	Sparks, NV 89436
MICHAEL PEARL	2416 Burtin Dr.
	Sparks, NV 89436
JOSEPH R. HENRY	2316 Dodge Dr.
BETHANY L. HENRY	Sparks, NV 89436
GORDON L. QUEEN	2455 Burtin Dr.
BARBARA A. QUEEN	Sparks, NV 89436
STEVEN M. SCHULTZ	2310 Dodge Dr.
CALL DAYS - LO DOTS OF THE CASE AS A STORY OF THE STORY O	Sparks, NV 89436
MICHAEL CAPSOUTO	5815 Ingleston Dr.
DIANA CAPSOUTO	Sparks, NV 89436
STEVEN W. NICHOLAS	5845 Ingleston Dr.
ANDREA NICHOLAS	Sparks, NV 89436
JUAN L. GONZALES, JR.	5945 Ingleston Dr.
	Sparks, NV 89436
RONALD KLONICKE	5848 Ingleston Dr.
	Sparks, NV 89436
PETER PETZING	2326 Dodge Dr.
BEVERLY PETZING	Sparks, NV 89436
HARRY K. RICE, JR.	2330 Dodge Dr.
CONSTANCE L. RICE	Sparks, NV 89436
C. BRAD GEORGE	2333 Dodge Dr.
NEAOMI GEORGE	Sparks, NV 89436
KAREN LAREECE BARTON	5905 Ingleston Dr.
	Sparks, NV 89436
KIMBERLY BISHOP	2459 Burtin Dr.
Sandrina kanggurah seri daga dipaksanja na 1907 kiloni sanggi jawasia 1906 sa 1906.	Sparks, NV 89436
MICHAEL GARCIA	5966 Ingleston Dr.
JUDITH A. GARCIA	Sparks, NV 89436
JOHN GILBERTSON	5918 Ingleston Dr.
KATHRYN GILBERTSON	Sparks, NV 89436

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COMPLAINT FOR DAMAGES

OWEN HARDY	5885 Ingleston Dr.
SONJA HARDY	Sparks, NV 89436
KRIS KALTENBACHER	5858 Ingleston Dr. Sparks, NV 89436
HERBERT MELENDEZ	2327 Dodge Dr.
MIRNA MELENDEZ	Sparks, NV 89436
RANDALL C. MILLER	5910 Ingleston Dr.
	Sparks, NV 89436
LORENZO RIOS	5834 Ingleston Dr.
IRENE RIOS	Sparks, NV 89436
LESLIE C. SMITH	2401 Lawry Dr.
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BERT SOFFIOTTO	5935 Ingleston Dr.
ANDREA SOFFICTTO	Sparks, NV 89436
JOHN TEGINS	5915 Ingleston Dr.
LAUREN TEGINS	Sparks, NV 89436
NELOSN VELASQUEZ	2317 Dodge Dr.
YOLANDA SOTO	Sparks, NV 89436

all individually (hereinafter "Plaintiffs"), by and through their attorneys of record, Duane E. Shinnick, Esq. and Eric Ransavage, Esq., of the law firm of SHINNICK, RYAN & RANSAVAGE P.C., and for causes of action against Defendants, and each of them, allege and complain as follows:

GENERAL ALLEGATIONS

- 1. Plaintiffs are owners of individual residences within the housing development known as COPPER HILLS @ WINGFIELD SPRINGS, more specifically described as residences in the subdivisions of WINGFIELD SPRINGS UNIT TWENTY-SIX A and WINGFIELD SPRINGS UNIT TWENTY-SIX A, UNIT 2.
- 2. Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages suffered by each unit owner as to their separate interests as delineated by law.
- 2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.
- 3. The property and buildings thereupon will hereinafter sometimes be referred to as the "subject property."

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COMPLAINT FOR DAMAGES

a) 4. Not Used

5. The Defendants are identified as follows: Plaintiffs allege that Defendant LAKEMONT COPPER HILLS, LLC, is authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Washoe, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.

5a. The Defendants are identified as follows: Plaintiffs allege that Defendant LAKEMONT HOMES NEVADA, INC., is authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Washoe, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.

- 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the agents, servants and employees of each other and were acting in the course and scope of their agency or employment in doing the acts herein alleged.
- 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does I to 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in some manner for the defective and negligent engineering, architecture, construction, supply of improper materials, and inspection of the subject property single family homes, or in some other actionable manner were an integral part of the chain of development, construction and marketing of the subject property single family homes, and that Plaintiffs damages as herein alleged were proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true names and capacities of such defendants are ascertained.
- 8. Defendants Does 1 through 500, inclusive, whether individual, corporate, associate or otherwise are fictitious names of defendants whose true names and capacities, at this time, are unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times herein mentioned each of the defendants sued herein as Does 1 through 500 was the agent, servant and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in the scope of his or her authority as such agent, servant and employee, and with the permission and

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consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave of this Court to amend this Complaint to insert said true names and capacities.

9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes of limitations that the subject property has and is experiencing defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, and other poor workmanship.

It was the result of the representations by Defendants that they would repair the defects and their conduct in so performing some works of repair, as well their proposals for correcting the defects that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit against said Defendants. By virtue of the fact that Defendants were the developers, contractors and sellers of the subject property and aware of the particular nature of the project, including its design, composition, and component parts, and when said Defendants represented that Defendants would repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in relying on said representations and conduct by said Defendants in permitting them to investigate and repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 11.190.

On numerous occasions Defendants represented to Plaintiffs that the defective systems and materials were not inadequate, and that repairs had been successfully performed thereby inducing reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore, Defendants are estopped from asserting any potentially applicable statutes of limitations.

10. Within the last year, Plaintiffs have discovered that the subject property has and is experiencing additional defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco separating, stucco staining and other poor workmanship.

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FIRST CAUSE OF ACTION

(Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1 through 400)

- 11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint as though fully set forth herein.
- 12. On or about various dates commencing in 2001, and continuing thereafter in the County of Washoe, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered into contracts in writing with Defendants for the purchase from said Defendants of one or more of the units in the subject property.
- 13. At the time of negotiations of said contracts, but before said contracts were executed between the Plaintiffs and/or their predecessors in interest and said Defendants, as an inducement to the Plaintiffs and/or their predecessors in interest to purchase said units, and as a part of the basis of the bargain of the parties that culminated in the making of the contracts, said Defendants expressly warranted to Plaintiffs and/or their predecessors in interest that said units were constructed in conformity with the applicable building codes and the specific codes and regulations of Washoe County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.
- 14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of fact, and promises made by Defendants. Plaintiffs, and each of them, have duly performed all the conditions and covenants of said contracts on their part to be performed.
- 15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, to remedy these defects.
- 16. As a direct and proximate result of the breach of the express warranties (written and oral) by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco separating, stucco staining and other poor workmanship.

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17. Plaintiffs have suffered damages in an amount not fully known, but believed to be within the jurisdiction of this Court in that they have been and will hereafter be required to perform works of repair, restoration, and construction to portions of the structures to prevent further damage and to restore the structures to their proper condition. Plaintiffs will establish the precise amount of such damages at trial, according to proof.

18. Plaintiffs are entitled to all damages set forth at NRS 40.655.

SECOND CAUSE OF ACTION

(Breach of Implied Warranties)

- 19. Plaintiffs reallege and incorporate by reference paragraphs 1 through 18 of the Complaint as though fully set forth herein.
- 20. Plaintiffs are informed and believe and on that basis allege that certain Doe defendants entered into contracts with LAKEMONT COPPER HILLS, LLC and LAKEMONT HOMES NEVADA, INC., to perform certain services or work with regard to the design, construction and inspection of construction of the residences at the subject property.
- 21. Further, said Doe defendants, as well as LAKEMONT COPPER HILLS, LLC and LAKEMONT HOMES NEVADA, INC., and/or their predecessors in interest, impliedly warranted that said homes would be of good and merchantable quality and would be at least a quality as would be fit for the ordinary purpose for which such homes were to be used and would be habitable. Further, said defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.
- 22. The PLAINTIFFS purchased their homes in reliance on the implied warranties and promises made by defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.

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23. Certain Plaintiffs and/or Homeowners at the subject property have notified defendants of said breach of implied warranties and said defendants have refused and continue to refuse to remedy these defects.

24. As a direct and proximate result of the breach of the implied warranties by defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco separating, stucco staining, and other poor workmanship. Numerous additional defective conditions exist as more particularly described in Plaintiffs' expert reports. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, and in accordance with NRS 40.655.

THIRD CAUSE OF ACTION

(Negligence and Negligence per se As to All Defendants, and Does I through 400)

- 25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint as though fully set forth herein.
- 26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the subject structure and subject premises were not properly or adequately designed, engineered, marketed, supervised and/or constructed, that the owners and users would be substantially damaged thereby, and that the subject structures would be defective and not of merchantable quality.
- 27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to exercise ordinary care to avoid reasonably foresecable injury to users and purchasers of the subject premises and structures, and knew or should have foreseen with reasonable certainty that purchasers and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of them, failed to perform their duty to cause the subject premises and subject structures to be designed, engineered and completed in a proper and workmanlike manner and fashion.

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- 28. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and neglected to perform the work, labor and services properly or adequately in that each said Defendants so negligently, carelessly, recklessly and in an unworkmanlike manner designed, constructed and inspected the subject property and performed the aforesaid work, labor and/or services, such that the subject premises and subject structures as described herein were designed, engineered and/or constructed improperly, negligently, carelessly and/or in an unworkmanlike manner, thereby breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the premises were constructed in an unworkmanlike manner.
- 29. Defendants' negligence alleged above includes the failure to meet the applicable building codes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest were members of the class of persons which the building codes and ordinances were designed to protect. Such violations are negligence per se on the part of Defendants, and each of them.
- 30. As a direct and proximate result of the foregoing negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.
 - 31. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

FOURTH CAUSE OF ACTION

(Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400)

- 32. Plaintiffs reallege and incorporate by reference paragraphs 1 through 31 of the Complaint, as though fully set forth herein.
- 33. All Defendants each impliedly warranted that said homes would be of good and merchantable quality, would be habitable, and would be completed in a workmanlike manner. Further, said Defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.

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1	34. The Plaintiffs purchased their homes in reliance on the implied warranties and promises		
2	made by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and		
3	conditions of said contracts on their part to be performed.		
4	35. Certain Plaintiffs and/or Homcowners at the subject property have notified Defendants of		
5	said breach of implied warranties and said Defendants have refused and continue to refuse to remedy		
6	these defects.		
7	36. As a direct and proximate result of the breach of the implied warranties by Defendants and		
8	each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items,		
9	defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco		
10	separating, stucco staining and other poor workmanship. Plaintiffs are presently unaware of the		
12	precise amount of damages, but will establish the same at trial according to proof.		
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	COMPLAINT FOR DAMAGES		
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1, WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as 2 follows: 3 1. For general and special damages in excess of \$10,000.00 including but not limited to, costs of repair, loss of market value, loss of use, loss of financing, loss of investment 5 and out-of-pocket expenses to be determined at time of trial; 6 2. For damages in an amount according to proof; 7 3. For reasonable attorneys' fees and costs according to proof. ä 4. For prejudgment and post-judgment interest on all sums awarded, according to proof 9 at the maximum legal rate; 10 5. For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and 11 40.655; 12 6. For costs of suit incurred; 13 7. For such other and further relief as the Court may deem just and proper. 14 15 This document does not contain the social security number of any person. 16 17 DATED this 9th day of July, 2012. 18 19 SHINNICK, RYAN & RANSAVAGE P.C. 20 21 Isl Eric Ransavage 22 Duane E, Shinnick, Esq. 23 Bar No. 7176 Eric Ransavage, Esq. 24 Bar. No. 8876 Emily Dow Esq. 25 Bar No. 10570 6165 Ridgeview Court, Suite B 26 Reno, Nevada 89509 Attorneys for Plaintiffs 27 28 [00113328.DOC] 1.2 COMPLAINT FOR DAMAGES

Exhibit 47

Exhibit 47

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4180 1 GRIFFITH H. HAYES, ESQ. 2 Nevada Bar No. 7374 ANN G. RICHARD, ESQ. 3 Nevada Bar No. 10202 COOKSEY, TOOLEN, GAGE, DUFFY & WOOG 4 3930 Howard Hughes Parkway, Suite 200 5 Las Vegas, Nevada 89169 Telephone: (702) 949-3100 б Facsimile: (702) 949-3104 7 Attorneys for Defendants/Third-Party Plaintiffs Lakemont Copper Hills, LLC and 8

Lakemont Homes Nevada, Inc.

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

ROGER M. LINO, individually; DONALD M. and DEBORAH M. BLEVINS, individually; MICHAEL PEARL, individually; JOSEPH R. and BETHANY L. HENRY, individually; GORDON L. and BARBARA A. OUEEN. individually; STEVEN M. SCHULTZ, individually; MICHAEL and DIANA CAPSOUTO, individually; STEVEN W. and ANDREA NICHOLAS, individually, JUAN L. GONZALES, JR., individually; RONALD KLONICKE, individually; PETER and BEVERLY PETZING, individually; HARRY K. RICE, JR. and CONSTANCE L. RICE, individually; C. BRAD and NEAOMI GEORGE, individually; KAREN LAREECE BARTON, individually; KIMBERLY BISHOP, individually; MICHAEL and JUDITH A. GARCIA, individually; JOHN and KATHRYN GILBERTSON, individually; OWEN and SONJA HARDY, individually: KRIS KALTENBACHER, individually; HERBERT and MIRNA MELENDEZ, individually; RANDALL C. MILLER, individually; Lorenzo AND IRENE RIOS, individually; LESLIE C. SMITH, individually; BERT and ANDEA SOFFIOTTO, individually; JOHN and LAUREN TEGINS, individually; NELSON VELASQUEA and YOLANDO SOTO, individually; and the same on behalf of themselves and on behalf of

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New York Corporation; GRAND FLOOR DESIGNS, INC. D/B/A CREATIVE TOUCH INTERIORS, a Delaware Corporation; J.K. ENTERPRISES, a Nevada Corporation; MICHAEL HOPPER CONSTRUCTION, INC., a California Corporation; MOSS CONSTRUCTION & DEVELOPMENT, INC., a Nevada Corporation; MUNRO PRODUCTS, INC. D/B/A ARTISAN STAIR, a Nevada Corporation; NEWELL ROOFING, INC., a Nevada Corporation; RC ELECTRIC, LLC, a Nevada Limited Liability Company; BUILDER SERVICES GROUP, INC. D/B/A ROOT INDUSTRIES, a Florida Corporation; DLM CONSTRUCTION, INC. D/B/A SIERRA WALL SYSTEMS, a Nevada Corporation; STATEWIDE LIGHTING, INC., a Nevada Corporation; STODMEISTER IRON, a Nevada Corporation; TILECO NEVADA, INC., a Nevada Corporation; TRUCKEE MEADOWS HEATING & AIR, a Nevada Corporation; UNLIMITED CONCRETE, INC., a Nevada Corporation; WESTERN SHOWER DOOR, INC., a Californía Corporation; TMHA, LLC, a Nevada Limited Liability Company; GRAND FLOOR DESIGNS, INC., a Delaware Corporation; ROBERT NEWELL dba NEWELL ROOFING, a sole proprietorship, GENERAL ELECTRIC COMPANY, a New York Corporation, and MOES 5 -50, inclusive, Third-Party Defendants.

FIRST AMENDED THIRD-PARTY COMPLAINT OF DEFENDANTS/THIRD-PARTY PLAINTIPFS LAKEMONT COPPER HILLS, LLC AND LAKEMONT HOMES NEVADA, INC.

COME NOW, Defendants/Third-Party Plaintiffs, LAKEMONT COPPER HILLS, LLC AND LAKEMONT HOMES NEVADA, INC., by and through their attorneys of record, the law firm of Cooksey, Toolen, Gage, Duffy & Woog, and allege as follows:

GENERAL ALLEGATIONS

 LAKEMONT COPPER HILLS, LLC and LAKEMONT HOMES NEVADA, INC.
 (hereinafter "LAKEMONT") refers to and incorporates herein each and every allegation made by Plaintiffs contained in Plaintiffs' First Amended Complaint for the sole purpose of establishing the

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fact that Plaintiffs have commenced suit against LAKEMONT, but without admitting, in whole or in part, any of the allegations contained in Plaintiffs' First Amended Complaint.

2. At all times relevant herein, AMIGOS LANDSCAPING, INC., a Nevada Corporation; ALCAL/ARCADE CONTRACTING, INC. D/B/A ARCADE INSULATION, INC., a Nevada Corporation; BUGICA LANDSCAPING AND EXCAVATION, a Nevada Corporation; CALDWELL CONCRETE, INC., a Nevada Corporation; CAVALLERO HEATING AND AIR CONDITIONING, INC., a Nevada Corporation; CERTIFIED WINDOW INSTALLATIONS, INC., a California Corporation; FIREPLACE DISTRIBUTORS OF NEVADA, INC., D/B/A D&D OVERHEAD DOOR, a Nevada Close Corporation; DEBARD PLUMBING, INC., a Nevada Corporation; ENERGETIC PAINTING & DRYWALL, INC., a Nevada Corporation; ERICKSON CONSTRUCTION, LLC, a Nevada Limited Liability Company; FRONTIER FENCE, LLC, a Nevada Limited Liability Company; G.L. CONSTRUCTION, a Nevada Corporation; GENE KOFFLER MASONRY, an Unknown Entity; GENERAL ELECTRIC APPLIANCES, a New York Corporation; GRAND FLOOR DESIGNS, INC. D/B/A CREATIVE TOUCH INTERIORS, a Delaware Corporation; J.K. ENTERPRISES, a Nevada Corporation; MICHAEL HOPPER CONSTRUCTION, INC., 8 California Corporation; MOSS CONSTRUCTION DEVELOPMENT, INC., a Nevada Corporation; MUNRO PRODUCTS, INC. D/B/A ARTISAN STAIR, a Nevada Corporation; NEWELL ROOFING, INC., a Nevada Corporation; RC ELECTRIC. LLC, a Nevada Limited Liability Company; BUILDER SERVICES GROUP, INC. D/B/A ROOT INDUSTRIES, a Florida Corporation; DLM CONSTRUCTION, INC. D/B/A SIERRA WALL SYSTEMS, a Nevada Corporation; STATEWIDE LIGHTING, INC., a Nevada Corporation; STODMEISTER IRON, a Nevada Corporation; TILECO NEVADA, INC., a Nevada Corporation; TRUCKEE MEADOWS HEATING & AIR, a Nevada Corporation: UNLIMITED CONCRETE. INC., a Nevada Corporation; WESTERN SHOWER DOOR, INC., a California Corporation; TMHA, LLC, a Nevada Limited Liability Company; GRAND FLOOR DESIGNS, INC., a Delaware Corporation; ROBERT NEWELL dba NEWELL ROOFING, a sole proprietorship, GENERAL ELECTRIC COMPANY, a New York Corporation, and MOES 4 though 50, inclusive (hereinaster, collectively, "Third-Party Defendants") were either individuals, sole proprietorships, partnerships,

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registered professionals, corporations or other legal entities that have been issued contractors' licenses by the State of Nevada to do business and doing business in the County of Washoe, State of Nevada, and MOES 5 through 50, inclusive, and each of them, were either individuals, sole proprietorships, partnerships, registered professionals, corporations or other legal entities doing business in the State of Nevada, and that each such entity performed construction-related work and/or supplied materials for the construction of the homes located in the Copper Hills @ Wingfield Springs subdivision in the City of Sparks, County of Washoe, State of Nevada (hereinafter referred to as the "Subject Properties").

- 2. The Third-Party Defendants, and each of them, were developers, contractors, subcontractors, and/or design professionals who, pursuant to the agreements between each of the Third-Party Defendants and LAKEMONT, performed construction-related activities for LAKEMONT at the Subject Properties, or were material suppliers to LAKEMONT, or were one of LAKEMONT's subcontractors who supplied materials and/or items which were installed into and/or became a part of said Subject Properties.
- 3. LAKEMONT alleges that the Third-Party Defendants may have acted as alter egos of other individuals, sole proprietorships, partnerships, registered professionals, corporations, or other legal entities, and that the true names and capacities of any such persons or entities for which Third-Party Defendants acted as alter egos are currently unknown to LAKEMONT; therefore, LAKEMONT will seek leave of court to amend this Third-Party Complaint to set forth the true names and capacities of any alter ego entities and state appropriate charging allegations, if and when that information is ascertained.
- 4. LAKEMONT is informed and believes and thereon alleges that the true names and capacities, whether individual, corporate, associate, or otherwise of MOES 5-50, inclusive, are unknown to LAKEMONT which, therefore, sues said fictitious names. Third-Party Defendants designated as MOES are responsible in some manner as an entity performing construction-related activities and providing materials for the construction of the Subject Properties and are responsible for the events and happenings described in Plaintiffs' First Amended Complaint and this Third-Party Complaint, which proximately caused damages to LAKEMONT as alleged herein. LAKEMONT is

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informed and believes and thereon alleges that each of the Third-Party Defendants designated as MOES, in some manner, performed work, installed, designed, constructed, and/or supplied materials to the Subject Properties pursuant to agreements between LAKEMONT and Third-Party Defendants, and each of them, or otherwise. LAKEMONT will amend this Third-Party Complaint when the true names and capacities of such Third-Party Defendants are ascertained.

- 5. The work being done and/or materials supplied by each of the Third-Party Defendants was pursuant to contracts, purchase orders, and/or agreements between Third-Party Defendants and LAKEMONT and/or another Third-Party Defendant to complete construction work called for by LAKEMONT pursuant to plans and specifications for the Subject Properties referenced above.
- б. LAKEMONT has been sued by ROGER M. LINO, individually; DONALD M. and DEBORAH M. BLEVINS, individually; MICHAEL PEARL, individually; JOSEPH R. and BETHANY L. HENRY, individually; GORDON L, and BARBARA A. QUEEN, individually; STEVEN M. SCHULTZ, individually; MICHAEL and DIANA CAPSOUTO, individually; STEVEN W. and ANDREA NICHOLAS, individually; JUAN L. GONZALES, JR., individually; RONALD KLONICKE, individually; PETER and BEVERLY PETZING, individually; HARRY K. RICE, JR. and CONSTANCE L. RICE, individually; C. BRAD and NEAOMI GEORGE, individually; KAREN LAREECE BARTON, individually; KIMBERLY BISHOP, individually; MICHAEL and JUDITH A. GARCIA, individually; JOHN and KATHRYN GILBERTSON, individually; OWEN and SONJA HARDY, individually; KRIS KALTENBACHER, individually; HERBERT and MIRNA MELENDEZ, individually; RANDALL C. MILLER, individually; Lorenzo AND IRENE RIOS, individually; LESLIE C. SMITH, individually; BERT and ANDEA SOFFIOTTO, individually; JOHN and LAUREN TEGINS, individually; NELSON VELASQUEA and YOLANDO SOTO, individually in the District Court of Nevada, County of Washoe, Case Number CV11-03683. Plaintiffs in this case have alleged defective or deficient design or construction, giving rise to their claims for relief under NRS 40.600 through 40.695.
- 7. The causes of action pled by Plaintiffs against LAKEMONT include 1) Breach of Contract and Breach of Express Warranties, 2) Breach of Implied Warranties, 3) Negligence and Negligence Per Se, and 4) Breach of Implied Warranty of Habitability.

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- 8. While working at the site, Third-Party Defendants, according to allegations of Plaintiffs' First Amended Complaint, acted in a negligent and/or careless manner, committed negligence per se, performed acts which resulted in breaches of warranties to Plaintiffs and/or others including, but not limited to, those of fitness, merchantability, and habitability, designed, manufactured, produced, and/or supplied defective products in an unreasonably dangerous and defective condition and/or committed acts of negligence, which allegedly injured and/or caused damages to Plaintiffs, as alleged in Plaintiffs' First Amended Complaint. Said acts have also resulted in damages to LAKEMONT by subjecting LAKEMONT to suit by Plaintiffs.
- 9. LAKEMONT is informed and believes and thereon alleges that the true names and capacities, whether individual, corporate, associate, or otherwise of Third-Party Defendants MOES 5 through 50, inclusive, are unknown to LAKEMONT who, therefore, sues said Third-Party Defendants by such fictitious names.
- 10. The legal capacities of the Third-Party Defendants are stated on information and belief. LAKEMONT will seek leave of court to amend this Third-Party Complaint to set forth the true names and capacities of the unknown MOE entities and state appropriate charging allegations, if and when that information is ascertained.

FIRST CLAIM FOR RELIEF

(Negligence)

- LAKEMONT repeats and realleges the allegations of paragraphs 1 through 10 of this
 Third-Party Complaint as though fully set forth herein.
- 12. Third-Party Defendants, and each of them, owed a contractual and/or legal duty to LAKEMONT and others, including Plaintiffs, to exercise due and reasonable care in the design, construction, and/or development of the Subject Properties. Third-Party Defendants also had a legal duty to abide by standards and laws including local construction practices, industry standards, governmental codes and restrictions, manufacturer requirements, Washoe County Building Codes, product specifications and the laws of the State of Nevada.
- 13. If the Subject Properties is defectively designed, developed, and/or constructed, Third-Party Defendants, and each of them, are responsible for such defects in that they failed to act

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reasonably in the design, development, and construction of the Subject Properties thereby breaching their duty owed to LAKEMONT and others, including Plaintiffs.

- 14. If the Subject Properties is defectively designed, developed, and/or constructed, the acts and omissions of Third-Party Defendants, and each of them, were the direct and proximate cause of any and all damages incurred by LAKEMONT and Plaintiffs.
- 15. LAKEMONT is informed and believes and, on that basis, alleges that Plaintiffs' damages, if any, were proximately caused by Third-Party Defendants, and each of them, and that Third-Party Defendants are liable for the damages sought by Plaintiffs in their Amended Complaint.
- 16. The breaches of the aforementioned duties by each Third-Party Defendant, as described in the preceding paragraphs, were and are the actual and proximate cause of damages to LAKEMONT in excess of \$10,000,00.
- 17. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

SECOND CLAIM FOR RELIEF

(Breach of Express and Implied Warranties)

- 18. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 17 of this Third-Party Complaint as though fully set forth herein.
- 19. LAKEMONT is informed and believes and thereon alleges that pursuant to the contracts, purchase orders, and/or agreements between LAKEMONT and the Third-Party Defendants, that Third-Party Defendants impliedly and expressly warranted that their work would be done in a good, workmanlike and substantial manner and in full accordance with the provisions and conditions of the agreements, the plans, and the specifications.
- 20. LAKEMONT relied upon said warranties and believed that said work was performed pursuant to said agreements and would be of a first class and workmanlike manner for its intended use and purpose.
 - 21. LAKEMONT is informed and believes and thereon alleges that Third-Party

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Defendants, and each of them, breached said agreements as has been alleged by Plaintiffs in the underlying action herein and that if numerous alleged deficiencies exist at the site as set forth in Plaintiffs' First Amended Complaint, then Third-Party Defendants, and each of them, were the direct and proximate cause of any and all damages incurred by LAKEMONT and Plaintiffs. Said alleged deficiencies are incorporated herein by reference.

- 22. As a proximate result of the breach of implied and express warranties by Third-Party Defendants, and each of them, LAKEMONT alleges that it will suffer damages in a sum equal to any sums paid by way of settlement or any alternative judgment rendered against LAKEMONT in the underlying action based upon Plaintiffs' First Amended Complaint.
- 23. This Third-Party Complaint will serve as additional subsequent notice of such conditions and LAKEMONT is informed and believes and thereon alleges that Third-Party Defendants, and each of them, decline to acknowledge their responsibilities to repair the alleged deficiencies as referenced above.
- 24. The breaches of the aforementioned warranties by each Third-Party Defendant, as described in the preceding paragraphs, were and are the actual and proximate cause of damages to LAKEMONT in excess of \$10,000.00.
- 25. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

THIRD CLAIM FOR RELIEF

(Implied Indemnity)

- 26. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 25 of this Third-Party Complaint as though fully set forth herein.
- 27. LAKEMONT is informed and believes and thereon alleges that LAKEMONT entered into written, oral, and/or implied agreements with Third-Party Defendants.
- 28. By reason of the foregoing, if Plaintiffs recover against LAKEMONT, then LAKEMONT is entitled to implied contractual indemnity from Third-Party Defendants, and each of

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them, for injuries and damages sustained by Plaintiffs, if any, for any sums paid by way of settlement, or in the alternative, judgment rendered against LAKEMONT in the underlying action based upon Plaintiffs' First Amended Complaint and/or any cross-claims filed herein.

29. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

FOURTH CLAIM FOR RELIEF

(Breach of Contract)

- 30. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 29 of this Third-Party Complaint as though fully set forth herein.
- 31. LAKEMONT is informed and believes and thereon alleges that it entered into agreements with Third-Party Defendants.
- 32. LAKEMONT has fully performed all conditions, covenants, and promises required by it to be performed in accordance with the terms and conditions of said agreements.
- 33. LAKEMONT is informed and believes and thereon alleges that Third-Party Defendants, and each of them, breached said agreements by failing to perform their work (a) in compliance with the applicable standard of care, (b) in a good and workmanlike manner, and (c) in a manner that was consistent with their legal obligations as set forth in the various agreements.
- 34. Further, LAKEMONT is informed and believes and thereon alleges that Third-Party Defendants breached their agreements by (a) failing to defend and indemnify LAKEMONT as a result of Plaintiffs' First Amended Complaint in the manner required under the agreements, (b) failing to name LAKEMONT as an additional insured in the manner required under the agreements, and (c) by failing to take appropriate steps to make sure that appropriate additional insured endorsements and insurance coverage had been obtained.
- 35. As a direct and proximate result of Third-Party Defendants' breaches of contract, LAKEMONT has been damaged in a sum which is currently unascertainable. LAKEMONT will seek leave of court to amend its Third-Party Complaint once such sum can be reasonably

ascertained.

36. As a direct and proximate result of the breaches of contract with Third-Party Defendants, and each of them, including MOES 5-50 as alleged, LAKEMONT has incurred and continues to incur costs and expenses including, but not limited to, litigation costs, altorneys' fees and consultants' fees in connection with the Amended Complaint filed by Plaintiffs in the action on file herein to the general damage of LAKEMONT, as will be shown according to proof at the time of the trial of this matter. LAKEMONT will seek recovery of the legal fees incurred in defending LAKEMONT.

FIFTH CLAIM FOR RELIEF

(Equitable Indomnity)

- 37. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 36 of this Third-Party Complaint as though fully set forth herein.
- 38. LAKEMONT is informed and believes and thereon alleges that any and all defects and damages alleged by Plaintiffs in their Amended Complaint are all defects and damages to, or destruction of, property and LAKEMONT is further informed and believes and thereon alleges that any and all damages were caused by Third-Party Defendants, and each of them, arising out of and in connection with the performance of Third-Party Defendants' operations and work at the Subject Properties.
- 39. In equity and good conscience, if Plaintiffs recover against LAKEMONT herein, then LAKEMONT is entitled to an equitable indemnity apportionment of the liability and contribution among and from the Third-Party Defendants, and each of them, according to their respective faults for the injuries and damages allegedly sustained by Plaintiffs, if any, by way of sums paid by settlement, or in the alternative, judgment rendered against LAKEMONT based upon Plaintiffs' First Amended Complaint.
- 40. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

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SIXTH CLAIM FOR RELIEF

(Contribution)

- 41, LAKEMONT repeats and realleges the allegations of paragraphs 1 through 40 of this Third-Party Complaint as though fully set forth herein.
- 42. Based upon the acts and/or omissions of Third-Party Defendants, and each of them, if a judgment is rendered on behalf of Plaintiff's, LAKEMONT is entitled to contribution from each of the Third-Party Defendants in an amount proportionate to the amount of negligence and/or fault attributable to each of the Third-Party Defendants.
- 43. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

SEVENTH CLAIM FOR RELIEF

(Apportionment)

- 44. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 43 of this Third-Party Complaint as though fully set forth herein.
- 45, LAKEMONT is entitled to an apportionment of liability between Third-Party Defendants, and each of them.
- 46. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18,010) and the contractual provisions of the agreements.

EIGHTH CLAIM FOR RELIEF

(Express Indemnity)

- 47. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 46 of this Third-Party Complaint as though fully set forth herein.
- Pursuant to the terms of the agreements entered into between LAKEMONT and Third-Party Defendants, LAKEMONT has defense and indemnification rights from the Third-Party

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Defendants, and each of them.

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- 49. Pursuant to the terms of the agreements entered into between LAKEMONT and Third-Party Defendants, Third-Party Defendants, and each of them, have the duty to defend and indemnify LAKEMONT in the action filed by Plaintiffs.
- 50. It has been necessary for LAKEMONT to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. LAKEMONT is entitled to recover its attorneys' fees and costs incurred herein pursuant to Nevada law (including NRS 18.010) and the contractual provisions of the agreements.

NINTH CLAIM FOR RELIEF

(Declaratory Relief)

- 51. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 50 of this Third-Party Complaint as though fully set forth herein.
- 52. A dispute has arisen and actual controversy now exists between LAKEMONT and Third-Party Defendants herein, and each of them, in that LAKEMONT contends that it is entitled to indemnity, contribution and damages on several legal theories from Third-Party Defendants, and each of them.
- 53. LAKEMONT desires a judicial determination as to the respective rights and obligations of LAKEMONT and Third-Party Defendants in connection with the matter herein alleged and a judgment in favor of LAKEMONT as to any obligation owed by each Third-Party Defendant to LAKEMONT herein.

TENTH CLAIM FOR RELIEF

(Declaratory Relief re: Duty to Defend)

- 54. LAKEMONT repeats and realleges the allegations of paragraphs 1 through 53 of this Third-Party Complaint as though fully set forth herein.
- 55. Third-Party Defendants, and each of them, have a present duty to defend LAKEMONT pursuant to Nevada law and as a result of the assertion of a claim and/or loss arising out of the work of the Third-Party Defendants, and each of them. LAKEMONT has a present legal right to be provided a defense by the Third-Party Defendants, and each of them.

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56.	A disp	ute ha	s arisen and a	an actual cont	roversy nov	v exists be	tween LAF	EMONT and
Third-Party Defendants, and each of them, in that LAKEMONT contends that they are entitled to a								
present de	fense froi	n the	Third-Party	Defendants,	and, each	of them,	while the	e Third-Party
Defendants, and each of them, deny such obligations.								

57. LAKEMONT seeks a declaration by the Court as to its rights and said Third-Party Defendants' duties and obligations as to the duty to defend in connection with the matters herein alleged, and a judgment in LAKEMONT's favor as to any obligations by Third-Party Defendants, and each of them, to LAKEMONT herein.

WHEREFORE, LAKEMONT prays for judgment against Third-Party Defendants, and each of them, as follows:

- 1. For general and special damages in excess of \$10,000.00;
- For indemnity, all damages, and/or economic losses that Plaintiffs and/or any Third-Party Plaintiffs or other parties recover against LAKEMONT by way of judgment, order, settlement, compromise or trial;
- 3. For reasonable attorneys' fees, costs, and expert costs and expenses pursuant to statutory and contract law and the terms of the contract;
 - 4. For prejudgment interest;
 - 5. For consequential damages in excess of \$10,000.00;
 - 6. For incidental damages in excess of \$10,000.00;
- 7. For an apportionment of liability between the Third-Party Defendants, and each of them;
- 8. For a declaration of rights and obligations as between LAKEMONT and Third-Party Defendants including, but not limited to, a declaration regarding the rights and obligations of the parties, the obligation of Third-Party Defendants to presently defend LAKEMONT, and the right of LAKEMONT to have Third-Party Defendants indemnify LAKEMONT for any alleged joint negligence, whether active or passive, of LAKEMONT;
 - 9. For contribution pursuant to NRS §17.225; and

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CERTIFICATE OF MAILING

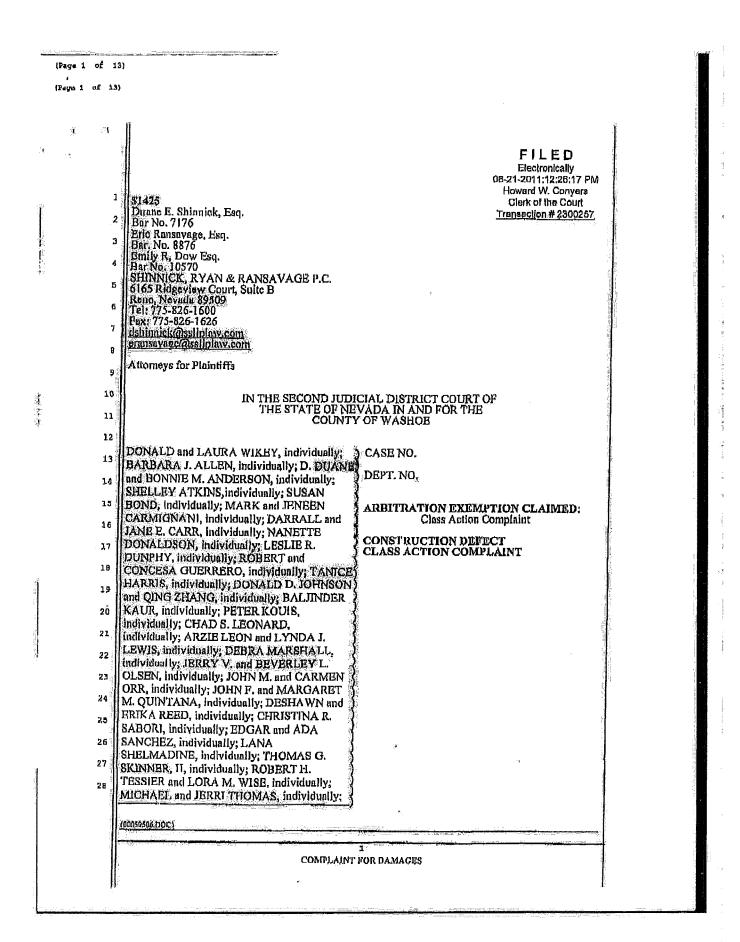
I HEREBY CERTIFY that on this 6th day of November, 2012, that I caused to be served a true and accurate copy of the foregoing DEFENDANTS/THIRD-PARTY PLAINTIFFS LAKEMONT COPPER HILLS, LLC AND LAKEMONT HOMES NEVADA, INC. FIRST AMENDED THIRD-PARTY COMPLAINT by the Court's electronic service, addressed as follows:

Coursel of Record	Plioneliga:Nos	Party
Eric Ransavage, Esq. Emily R. Dow, Esq. Shinnick Ryan & Ransavage PC 6165 Ridgeview Ct., Ste. B Reno, NV 89509	T: (775) 826-1600 F: (775) 826-1626	Plaintiffs
John C. Boyden, Esq. Brett A. Dieffenbach, Esq. Brickson Thorpe & Swainston P. O. Box 3559 99 W. Arroyo Street Reno, NV 89505	T: (775)786-3930	ALCAL/Arcade Contracting, Inc. dba Arcade Insulation, Inc.
Nathan Aman, Esq. Fahrendorf, Viloria, Oliphant & Oster, LLP 327 California Ave. Reno. NV 89505	T: (775)348-999 P: (775)348-0540 naman@renonvlaw.com	Builder Services Group, Inc. dba Root Industries; Erickson Construction, LLC
Wayne A. Shaffer, Esq. Laxait & Nomura, Ltd. 9600 Gateway Dr. Reno, NV 89521	T: (775) 322-1170 F: (775) 322-1865	Cavallero Heating & Air- Conditioning
Craig M. Burkett, Esq. Cisneros, Clayson & Marias One East First St., Stc. 1400 Reno, NV 89501	T: (775) 326-8200 F: (775) 326-8206	Munro Products, Inc. dba Artisan Stair
Mitchell J. Resnick, Esq. Jenny L. Foley, Esq. Resnick & Louis, PC 415 S. Sixth St., Ste. 300 Las Vegas, NV 89101	T: (702)622-4260 F: (702)602-456-6256 ifoley@rlattorneys.com mresnick@rlattorneys.com	Truckee Meadows Heating & Air
John C. Boyden, Esq. Brett A. Dieffenbach, Esq. Erickson Thorpe & Swainston P. O. Box 3559 99 W. Arroyo Street Reno, NV 89505	T: (775)786-3930	
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Exhibit 48

Exhibit 48



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PAUL and KAREN TIENSVOLD, individually; CHERYL D. TIPTON, individually; OSCAR A. TORRES, individually; JAMES and MARIAN WHITE, individually; OWEN and BONNY WILKERSON, individually; and the same on behalf of themselves and on behalf of others similarly situated, and ROES 1-600, inclusive Plaintiffs,

K & M HOMES OF NEVADA, LLC, a Nevada Limited-Liability Company; K & M HOMES, LLC, a Nevada Limited-Liability Company; and DOES 1 through 500, inclusive,

Defendants.

COMPLAINT FOR DAMAGES

DONALD and LAURA WIKEY, individually; BARBARA J. ALLEN, individually; D. DUANE and BONNIE M. ANDERSON, individually; SHELLEY ATKINS, individually; SUSAN BOND, individually; MARK and JENFEN CARMIGNANI, individually; DARRALL and JANE E. CARR, individually; NANETTE DONALDSON, individually; LESLIE R. DUNPHY, individually; ROBERT and CONCESA GUERRERO, individually; TANICE HARRIS, individually; DONALD D. JOHNSON and QING ZHANG, individually; BALJINDER KAUR, individually; PETER KOUIS, individually; CHAD S. LEONARD, individually; ARZIE LEON and LYNDA J. LEWIS, individually; DEBRA MARSHALL, individually; JERRY V. and BEVERLEY L. OLSEN, individually; JOHN M. and CARMEN ORR, individually; JOHN P. and MARGARET M. QUINTANA, individually; DESHAWN and ERIKA REED, individually; CHRISTINA R. SABORI, individually; EDGAR and ADA SANCHEZ, individually; LANA SHELMADINE, individually; THOMAS G. SKINNER, II, individually; ROBERT H. TESSIER and LORA M. WISE, individually; MICHAEL and JERRI THOMAS, individually; PAUL and KAREN TIENSVOLD, individually; CHERYL D. TIPTON, individually; OSCAR A. TORRES, individually; JAMES and MARIAN WHITE, individually; OWEN and BONNY WILKERSON, individually; and the same on behalf of

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themselves and on behalf of others similarly situated (hereinafter "Plaintiffs"), by and through their attorneys, Duanc E. Shinnick, Esq. and Erlc Ransavage, Esq., of the law firm of SHINNICK, RYAN & RANSAVAGE P.C., and for causes of action against Defendants, and each of them, allege and complain as follows:

GENERAL ALLEGATIONS

- 1. Plaintiffs are owners of individual residences within the housing development known as VISTARA, more specifically described as residences in the subdivisions of SKY VISTA VILLAGE 7A and SKY VISTA VILLAGE 7B. The materials and workmanship of their residences are substantially the same as the other 134 residences at VISTARA, and the same on behalf of themselves and on behalf of others similarly situated, are adequate representatives of the class as owners at VISTARA.
- 2. Pursuant to NRS 40.600 through 40.595 Inclusive, Plaintiffs seek recovery for damages
- 2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.
- The property and buildings thereupon will hereinafter sometimes be referred to as the "subject property."
- 4. A class action is alleged pursuant to Nevada Rules of Civil Procedure Rule 23. The class consists of all owners of the subject property. Class Representative Plaintiffs bring this action as a class action, as representatives of all individuals who own one or more single family homes at the subject property in Washoe County, Nevada.
 - a) Plaintiffs allege that the class, consisting of the owners of approximately 1.34 units, is so numerous that joinder of all homeowners individually would be impractical and that disposition of their claims in a representative suit is a benefit to the court.
 - b) Plaintiffs have a well defined community of interest or questions of fact and law

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common to each member of the class in that all members of the class have suffered injuries due to construction defects, the related stigma, diminution in value, lost rents, and personal property damage, as a result of expansive soils and other defect relevant causes and the claims herein alleged by Plaintiffs are representative of those claims which could be alleged by such members of the class.

- c) Plaintiffs allege that the relief herein sought is typical of the relief which could be sought by each of the class members.
- d) Plaintiffs allege that questions of law and fact common to the class predominate over questions affecting the individual class members, and that the interest of justice and efficiency will be best served by bringing this action as a class action with regard to the aforementioned interests.
- e) Plaintiffs allege that the prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to the individual members of the class which would establish incompatible standards of conduct by the parties opposing the class, and adjudication with respect to individual members of the class would be dispositive of the interest of other members not parties to the adjudication, or would substantially impair or impede their ability to protect their interests.
- f) The Class Representative Plaintiffs have typical claims as the members of the class and were damaged by the acts and practices of the Defendants. They will fairly and adequately protect the interest of the class, as each is an owner of real property within the affected area identified below, and each was damaged by the acts and practices of Defendants, and each of them. Class Representative Plaintiffs have no conflicts with the other homeowners of the subject property single family homes, with respect to the claims alleged and have retained competent and experienced counsel to represent them.
- g) The members of the class are easily located and identified as all individual

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homeowners at the subject property. The names and addresses of the individuals who own single family homes at the subject property are maintained as public records.

- h) There is no plain, speedy, or adequate remedy other than maintenance of this class action. Consequently, there would be a failure of justice and efficiency, but for the maintenance of this class action.
- 5. The Defendants are identified as follows: Plaintiffs alloge that Defendant K & M HOMES OF NEVADA, LLC, a Nevada Limited-Liability Company, authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Washoe, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.

5n. The Defendants are identified as follows: Plaintiffs allege that Defendant K & M HOMES, LLC, a Nevada Limited-Liability Company, authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Washoe, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.

- 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the agents, servants and employees of each other and were acting in the course and scope of their agency or employment in doing the acts herein alleged.
- 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does 1 to 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege, that each of the said flotitiously named defendants are responsible in some manner for the defective and negligent engineering, architecture, construction, supply of improper materials, and inspection of the subject property single family homes, or in some other actionable manner were an integral part of the chain of development, construction and marketing of the subject property single family homes, and that Plaintiffs damages as herein alleged were proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true names and capacities of such defendants are ascertained.

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8. Defendants Does I through 500, inclusive, whether individual, corporate, associate or otherwise are fictitious names of defendants whose true names and capacities, at this time, are unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times herein mentioned each of the defendants sund herein as Does I through 500 was the agent, servant and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in the scope of his or her authority as such agent, servant and employee, and with the permission and consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave of this Court to amend this Complaint to insert said true names and capacities.

9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes of limitations that the subject property has and is experiencing defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt conting through windows, drywall cracking, hardboard separating, hardboard slaining, concrete gracking and other poor workmanship.

It was the result of the representations by Defendants that they would repair the defects and their conduct in so performing some works of repair, as well their proposals for correcting the defects that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit against said Defendants. By virtue of the fact that Defendants were the developers, contractors and sellers of the subject property and aware of the particular nature of the project, including its design, composition, and component parts, and when said Defendants represented that Defendants would repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in relying on said representations and conduct by said Defendants in permitting them to investigate and repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 11.190.

On numerous occasions Defendants represented to Plaintiffs that the defective systems and materials were not inadequate, and that repairs had been successfully performed thereby inducing

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reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore, Defendants are estopped from asserting any potentially applicable statutes of limitations.

10. Within the last year, Plaintiffs have discovered that the subject property has and is experiencing additional defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining, concrete cracking and other poor workmanship.

FIRST CAUSE OF ACTION

(Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1 through 400)

- 11. Plaintiffs realiege and incorporate by reference paragraphs I through 10 of the Complaint as though fully set forth herein.
- 12. On or about various dates commencing in 2001, and continuing thereafter in the County of Washoe, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered into contracts in writing with Defendants for the purchase from said Defendants of one or more of the units in the subject property.
- 13. At the time of negotiations of said contracts, but before said contracts were executed between the Plaintiffs and/or their predecessors in interest and said Defendants, as an inducement to the Plaintiffs and/or their predecessors in interest to purchase said units, and as a part of the basis of the bargain of the parties that culminated in the making of the contracts, said Defendants expressly warranted to Plaintiffs and/or their predecessors in interest that said units were constructed in conformity with the applicable building codes and the specific codes and regulations of Washoe County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so,
- 14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of fact, and promises made by Defondants. Plaintiffs, and each of them, have duly performed all the conditions and covenants of said contracts on their part to be performed.

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15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, to remedy these defects.

16. As a direct and proximate result of the breach of the express warranties (written and oral) by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywell cracking, hardboard separating, hardboard staining, concrete cracking and other poor workmanship.

17. Plaintiffs have suffered damages in an amount not fully known, but believed to be within the jurisdiction of this Court in that they have been and will hereafter be required to perform works of repair, restoration, and construction to portions of the structures to prevent further damage and to restore the structures to their proper condition. Plaintiffs will establish the precise amount of such damages at trial, according to proof.

18. Plaintiffs are entitled to all damages set forth at NRS 40.655.

SECOND CAUSE OF ACTION

(Breach of Implied Warranties-Third Party Beneficiary as against Does 1 through 400)

- 19. Plaintiffs realiege and incorporate by reference paragraphs 1 through 18 of the Complaint as though fully set forth herein.
- 20. Plaintiffs are informed and believe and on that basis allege that certain Doc defendants entered into contracts with K & M HOMES OF NEVADA, LLC and K & M HOMES, LLC COMPANY to perform certain services or work with regard to the design, construction and inspection of construction of the residences at the subject property.
- 21. Further, said Doc defendants, as well as K & M HOMES OF NEVADA, LLC and K & M HOMES, LLC and/or their predecessors in interest, impliedly warranted that said homes would be of good and merchantable quality and would be at least a quality as would be fit for the ordinary purpose

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for which such homes were to be used and would be habitable. Further, said defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.

- 22. The PLAINTIFFS purchased their homes in reliance on the implied warranties and promises made by defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.
- 23. Certain Plaintiffs and/or Homeowners at the subject property have notified defendants of said breach of implied warranties and said defendants have refused and continue to refuse to remedy these defects.
- 24. As a direct and proximate result of the breach of the implied warranties by defendants and each of them as herein above alleged, Plaintiffs suffered damages atemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining, concrete cracking and other poor workmanship. Numerous additional defluctive conditions exist as more particularly described in Plaintiffs' expert reports. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, and in accordance with NRS 40.655.

THIRD CAUSE OF ACTION

(Negligence and Negligence per se As to All Defendants, and Does 1 through 400)

- 25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint as though fully set forth herein.
- 26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the subject structure and subject premises were not properly or udequately designed, engineered, marketed, supervised and/or constructed, that the owners and users would be substantially damaged thereby, and that the subject structures would be defective and not of merchantable quality.

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24 25 27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to exercise ordinary care to avoid reasonably foresecable injury to users and purchasers of the subject premises and structures, and knew or should have foreseen with reasonable certainty that purchasers and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of them, failed to perform their duty to cause the subject premises and subject structures to be designed, engineered and completed in a proper and workmanlike manner and fashion.

28. Said Defendants, and each of them, breached their duty owad to Plaintiffs, failed and neglected to perform the work, labor and services properly or adequately in that each said Defendants so negligantly, carclessly, recklessly and in an unworkmanlike manner designed, constructed and inspected the subject property and performed the aforestid work, labor and/or services, such that the subject premises and subject structures as described herein were designed, engineered and/or constructed improperly, negligently, carclessly and/or in an unworkmanlike manner, thereby breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the premises were constructed in an unworkmanlike manner.

29. Defendants' negligence alleged above includes the failure to meet the applicable building codes and ordinances which were in effect. Plaintiffs' members and their prodecessors in interest were members of the class of persons which the building codes and ordinances were designed to protect. Such violations are negligence per se on the part of Defendants, and each of them.

30. As a direct and proximate result of the foregoing negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.

31. Plaintiffs are also entitled to	the demages	net forth	at NRS 4	0,655.
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(COCKADE PROPERTIES)

10 Complaint for Damages (Page 11 of 13) (Page 11 of 13) 2 FOURTH CAUSE OF ACTION 3 (Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400) 32. Plaintiffs reallege and incorporate by reference paragraphs I through 31 of the Complaint, as though fully set forth herein. 33. All Defendants each implicitly warranted that said homes would be of good and merchanitable quality, would be habitable, and would be completed in a workmanlike manner, Further, said Defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114. 10 34. The Plaintiffs purchased their homes in reliance on the Implied warranties and promises 11 made by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and 12 conditions of said contracts on their part to be performed. 13 35. Certain Plaintiffs and/or Homeowners at the subject property have notified Defendants of 14 said breach of implied warranties and said Defendants have refused and continue to refuse to remedy 15 these defects. 16 36. As a direct and proximate result of the breach of the implied warranties by Defendants and 17 each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, 18 defectively built roofs, leaking windows, dirt coming through windows, drywall oracking, hardboard 19 superating, hardboard staining, concrete oracking and other poor workmanship. Plaintiffs are 20 presently unaware of the precise amount of damages, but will establish the sume at trial according to proof. 22 23 25 26 27 20

COMPLAINT FOR DAMAGUS

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(Page 12 of 13) (Page 12 of 18) ä WHEREFORE, Plointiffs pray for judgment against Defendants, and each of them, as 2 follows: 3 For general and special damages in excess of \$10,000.00 including but not limited to, 1, costs of repair, loss of market value, loss of use, loss of financing, loss of investment and out-of-pocket expenses to be determined at time of trial; 6 2. For damages in an amount according to proof; 7 3, For reasonable attorneys' fees and costs according to proof. 8 4, For prejudgment and post-judgment interest on all sums awarded, according to proof at the maximum legal rate; 10 For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and 11 40.655; 1.2 6. For costs of suit incurred; 13 7. For such other and further relief as the Court may deem just and proper. 14 This document does not contain the social security number of any person. 15 16 DATED this 21st day of June, 2011 17 18 SHINNICK, RYAN & RANSAVAGE P.C. 19 20 /a/ Eric Ransavero 21 Duane E, Shinnick, Esq. Ват No. 7176 22 Eric Ransavage, Esq. 23 Bar. No. 8876 Emily R, Dow Esq. Bar No. 10570 6165 Ridgeview Court, Suite B Reno, Nevada 89509 29 25 Attorneys for Plaintiffs 26 27 28 (00059806 LX)C1 12 COMPLAINT FOR DAMAGES

Exhibit 49

Exhibit 49

(Page 1 of 21) (Page 1 of 21) FILED Electronically 01-04-2012:10:20:66 AM Joey Orduna Hasilinga Clark of the Court Oriffith H. Hayes, ESQ. Transaction # 2670630 Nevada Bar No. 7374 ANDREW R. MUEHLBAUER Nevada Bar No. 10161 COOKSEY, TOOLEN, GAGE, DUFFY & WOOG A Professional Corporation 3930 Howard Hughes Furkway, Suite 200 3 Las Vogas, Novada 89169 Telephone: (702) 949-3100 Pucsimile: (702) 949-3104 5 б Attorneys for Defendants K&M Homes of Nevada, LLC and K&M Homes, LLC 7 8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA 9 IN AND FOR THE COUNTY OF WASHOE 10 Case No.: CV11-01836 DONALD and LAURA WIKEY, individually Cooksey, Toolen, Gage, Duffy & Woog BARBARA J. ALLEN, individually; D. DUANE Dept.: and BONNIE M. ANDERSON, individually; SHELLEY ATKINS, individually; SUSAN DEFENDANTS K & M HOMES OF 12 NEVADA, LLC AND K & M HOMES, BOND, individually; MARK and JENBEN 13 LLC'S THIRD-PARTY COMPLAINT CARMIONANI, individually; DARRALL and JANE E. CARR, individually, NANETTE 14 DONALDSON, individually, LESLIE R. DUNPHY, individually; ROBERT and CONCESA GUERRERO, individually: TANICE HARRIS, individually, DONALD D. JOHNSON and QING ZHANG, individually, BALJINDER 17 KAUR, individually: PETER KOUIS, individually; CHAD S. LEONARD, Individually; ARZIE LEON and LYNDA I, LEWIS, individually; DEBRA MARSHALL, 19 individually; JERRY V, and BEVERLEY L. OLSEN, individually, JOHN M. and CARMEN 20 ORR, individually; JOHN F, and MARGARET 21 M. QUINTANA, individually, DESHAWN and BRIKA REED, individually, CHRISTINA R. 22 SABORI, individually; EDGAR and ADA 23 SANCHEZ, individually: LANA SHELMADINE, individually; THOMAS C. 24 SKINNER, II, individually; ROBERT H. TESSIER and LORA M. WISE, individually; 25 MICHAEL and JERRI L. THOMAS, individually: PAUL and KAREN TIENSVOLD, 26 individually; CHERYL D. TIPTON, individually; OSCAR A. TORRES, individually; 27 JAMES and MARIAN WHITE, individually; OWEN and BONNY WILKERSON, A30.0101 2207299.1

(Page 2 of 21) (Page 2 of 21) individually; IBRAHIM ALNUAIMI, individually; TOMAS and ALICIA ARZOLA, individually; ALEXEY and ALLA ASTANOVITSKIY, individually; CHARLES D. BEASLY, individually; HMORY and MARY BOHANAN, individually; RICHARD A. BYBEE, individually: MARIA CUDO, individually; MARTIN 8, and NORA D. ORTIZ, individually; KRISTIE PARKER; individually; GURALD and SONIA PIPPIN, individually: TERI MARTINETTI, individually; 7 ANNEMARIE CULLEN, individually; and ROPS 18-600, inclusive 8 9 Plaintiffs, 10 COORSELY, TOOLEN, GAGE, DUIFFY & WOOG 11 K & M HOMES OF NEVADA, LLC, a Nevada Limited-Liability Company; K & M HOMES, 12 LLC, a Nevada Limited-Liability Company; and 13 DOES I through 500, inclusive, 14 Defendants 15 K & M HOMBS OF NEVADA, LLC, a Nevada 16 Limited-Liability Company; K & M HOMES, 17 LLC, a Nevada Limited-Liability Company, 18 Third-party Plaintiffs, 19 20 ALL SEASONS GLASS; BECK 21 CONSTRUCTION, LLC; BLUE RIBBON STAIRS; BOWERS BROTHERS 22 CONSTRUCTION; BRIGHT ELECTRIC, INC. DIBIA EXPRESS ELECTRIC; BURTON 23 COMPONENTS, INC.; CANAC KITCHENS 24 U.S. LIMITED; CAVALLERO HEATING & AIR CONDITIONING, INC.; COLOR COAT 25 PAINTING, INC.; C.W. EXCAVATING, INC.; DAVES DESIGN CUNTER (NEVADA), LLC: 26 DEBARD PLUMBING, INC.; DESERT ROOFING INCORPORATED: ENERGETIC 27 PAINTING & DRYWALL, INC.; ESTATE PAINTING & WALLPAPERING, INC.: 450 0107 1209209,1

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COOKSEY, TOOLEN, GASE, DUFFY & WYOG

INCLINE GLASS, INC.; KEHOE TILE & STONE, INC. D/B/A KEHOE TILE WORKS; KEITH SHELTON CONSTRUCTION, INC.; KEYSTONE MILLWORK, LLC; MUNRO PRODUCTS, INC. D/B/A.ARTISAN STAIRS; newell roofing, inc.; Northern nevada landscáping; northscape CORP.; PACIFIC COAST CONTRACTING SPECIALTIES D/B/A THE GARAGE DOOR CENTER; RC ELECTRIC, LLC; SACRAMENTO INSULATION CONTRACTORS DIBIA GALE BUILDING PRODUCTS; THOLL FENCE, INC.; UNIQUE DRYWALL & STUCCO, INC.; UNLIMITED CONCRETE, INC.; and MOES 1-100, INCLUSIVE,

Third-party Defendants.

DEFENDANTS K & M HOMES OF NEVADA, LLC AND K & M HOMES, LLC'S THIRD-PARTY COMPLAINT

COME NOW Defendants K & M HOMES OF NEVADA, LLC and K & M HOMES, LLC (collectively "K&M") by and through their counsel of record, the law firm of Cooksey, Toolen, Gage, Duffy and Woog, and hereby allege as follows:

GENERAL ALLEGATIONS

- 1. K&M refers to and incorporates herein each and every allegation made by Plaintiff's contained in Plaintiff's' First Amended Complaint for the sole purpose of establishing the fact that Plaintiff's have commenced suit against K&M but without admitting, in whole or in part, any of the allegations contained in Plaintiffs' First Amended Complaint.
- 2. At all times relevant herein all seasons glass; beck construction, LLC; blue ribbon stairs; bowers brothers construction; bright electric, inc. D/B/A express electric; burton components, inc.; canac kitchens u.s. Limited; cavallero heating & air conditioning, inc.; color coat painting, inc.; c.w. excavating, inc.; daves design center (nevada), LLC;

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JOOKSEY, TOCKEY, GACE, DUFFY & WOOD

DEBARD PLUMBING, INC.; DESERT ROOFING INCORPORATED; ENERGETIC PAINTING & DRYWALL, INC.; ESTATE PAINTING & WALLPAPERING, INC.; INCLINE GLASS, INC.; KEHOE TILE & STONE, INC. D/B/A KEHOE TILE WORKS; KEITH SHELTON CONSTRUCTION, INC.; KEYSTONE MILLWORK, LLC; MUNRO PRODUCTS, INC. D/B/A ARTISAN STAIRS; NEWELL ROOFING, INC.; NORTHERN NEVADA LANDSCAPING; NORTHSCAPE CORP.; PACIFIC COAST CONTRACTING SPECIALTIES D/B/A THE GARAGE DOOR CENTER; RC ELECTRIC, LLC; SACRAMENTO INSULATION CONTRACTORS D/B/A GALE BUILDING PRODUCTS; THOLL FENCE, INC.; UNIQUE DRYWALL & STUCCO, INC.; and UNLIMITED CONCRETE, INC. (collectively, "THIRD-PARTY DEFENDANTS") were either individuals, sole proprietorships, partnerships, registered professionals, corporations or other legal entities licensed to do and doing business in the County of Clark, State of Nevada, and MOES 1-1.00, inclusive, and each of them, were individuals, sole proprietorships, partnerships, registered professionals, corporations or other legal entities doing business in the State of Neveda who performed design/construction-related work and/or supplied materials for the construction of the homes located in the Sky Vista Village subdivision, located in Sparks, Nevada (hereinafter referred to as the "Subject Properties").

- 3. The THIRD-PARTY DEFENDANTS, and each of them, were developers, contractors, subcontractors, and/or design professionals who, pursuant to the agreements between each of the THIRD-PARTY DEFENDANTS and K&M, performed construction activities for K&M at the Subject Properties or were material suppliers to K&M, or were one of their subcontractors who supplied materials and/or items which were installed into and/or became a part of the Subject Properties.
- 4. K&M elieges that the THIRD-PARTY DEFENDANTS may have acted as after egos of other individuals, sole proprietorships, partnerships, registered professionals, corporations, or other legal entities, and that the true names and capacities of any such persons or entities for which THIRD-PARTY DEFENDANTS noted as after egos are currently unknown to K&M; therefore, K&M will seek leave of court to amond this Third-party Complaint to set forth the true names and capacities of any after ego entities and state appropriate charging allegations, if and when that

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information is ascertained.

- S. K&M is informed and believes and thereon alleges that the true names and capacities, whether individual, corporate, associate, or otherwise of MOES 1-100, inclusive, are unknown to K&M who therefore sues said fictitious names. THIRD-PARTY DEPENDANTS designated as MOES are responsible in some manner as an entity performing construction-related activities and providing materials for the construction of the Subject Properties, and are responsible for the events and happenings described in Plaintiffs' First Amended Complaint and this Third-party Complaint, which proximately caused damages to K&M as alleged herein. K&M is informed and believes and thereon alleges that each of the THIRD-PARTY DEPENDANTS designated as MOES in some manner performed work, installed, designed, constructed, and/or supplied materials to the Subject Properties pursuant to agreements between K&M and THIRD-PARTY DEFENDANTS designated as MOES, and each of them, or otherwise.
- 6. The work performed and/or materials supplied by each of the THIRD-PARTY DEFENDANTS was pursuant to contracts, purchase orders, and/or agreements between THIRD-PARTY DEFENDANTS and K&M pursuant to plans and specifications for the Subject Properties referenced above.
- 7. K&M has been sued by Plaintiffs, Donald and Laura Wikey, et al., in the District Court of Nevada, County of Washoo, Case CV11-01836. The Plaintiffs in this case have alleged defective or deficient design or construction giving rise to their claims for relief under NRS 40.600 through 40.695.
- 8. The causes of action pled by Plaintiffs against K&M include Breach of Contract and Breach of Express Warranties, Breach of Implied Warranties, Negligence, Negligence per se, and Breach of Implied Warranty of Flabitability.
- 9. K&M alleges that THIRD-PARTY DEFENDANTS and each of thom, including MOES 1-100, while working at the Subject Properties, acted in a negligent and/or careless manner, committed negligence per se, performed acts which resulted in breaches of warranties including but not limited to, those of fitness, merchantability, and habitability, and/or supplied defective products in an unreasonably dangerous and defective condition and/or committed acts of negligence, which

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allegedly injured or caused damages to Plaintiffs as alleged in Plaintiffs' First Amended Complaint. Said acts have also resulted in damages to K&M by subjecting K&M to suit by Plaintiffs.

The logal capacities of the THIRD-PARTY DEFENDANTS are stated on information and belief. K&M will seek leave of court to amend this Third-party Complaint to set forth the true names and capacities of those unknown MOE entities and state appropriate charging allegations, if and when that information has been ascertained.

FIRST CLAIM FOR RELIEF

(Negligence)

- 11. K&M repeats and realleges the allegations of paragraphs 1 through 10 of this Thirdparty Complaint as though fully set forth herein.
- 12. THIRD-PARTY DEPENDANTS, and each of them, owed a contraction and/or legal duly to K&M to exercise due and reasonable care in the design, construction, and/or development of the Subject Properties. THIRD-PARTY DEPENDANTS also had a legal duty to abide by local construction practices, industry standards, governmental codes and restrictions, manufacturer requirements, Washoe County Building Codes, product specifications and the laws of the State of Nevada.
- 13. If the Subject Proporties are defectively designed and/or constructed, THIRD-PARTY DEFENDANTS, and each of them, are responsible for such defects in that they failed to act reasonably in the design and/or construction of the Subject Properties, thereby breaching their duties owed to K&M and others, including Plaintiffs.
- 14. If the Subject Properties are defectively designed and/or constructed, the acts and omissions of THIRD-PARTY DEPENDANTS, and each of them, were the direct and proximate cause of any and all damages incurred by K&M and Plaintiffs.
- 15. K&M is informed and believes and on that basis alleges that Plaintiffs' damages, if any, were proximately caused by THIRD-PARTY DEFENDANTS, and each of them, and that THIRD-PARTY DEFENDANTS are liable for the damages sought by Plaintiffs in their First Amended Complaint.
 - 16. The breaches of the aforementioned duties by each THIRD-PARTY DEFENDANT,

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as described in paragraphs 11 through 15 above, were and are the actual and proximate cause of damages to K&M in excess of \$10,000.00.

It has been necessary for K&M to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. K&M is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements, and Novada law.

SECOND CLAIM FOR RELIEF

(Breach of Express and Implied Warranties)

- K&M repeats and realizees the allogations of paragraphs 1 through 17 of this Third-18. Party Complaint as though fully set forth herein.
- K&M is informed and believes and thereon alleges that pursuant to the contracts, purchase orders, and/or agreements between K&M and the THIRD-PARTY DEFENDANTS, that THIRD-PARTY DEFENDANTS impliedly and expressly warranted that their work would be done in a good, workmanlike, and substantial manner and in full accordance with the provisions and conditions of the agreements, the plans, and the specifications.
- K&M relied upon said warranties and believed that said work was performed pursuant to said agreements and would be of a first class and workmanlike manner for its intended use and purpose,
- K&M is informed and believes and thereon alleges that THIRD-PARTY 21. DEFENDANTS, and each of them, breached said agreements as has been alleged by Plaintiffs in the main action herein and that, if numerous alleged deficiencies exist at the site as set forth in the First Amended Complaint as filed herein, THIRD-PARTY DEFENDANTS, and each of them, were the direct and proximate cause of any and all damages incurred by K&M and Plaintiffs. Said alleged deficiencies are incorporated herein by reference.
- As a proximate result of the breach of implied and express warranties by THIRD-PARTY DEPENDANTS, and each of them, K&M alleges that it will suffer damages in a sum equal to any sums paid by way of settlement or any alternative judgment rendered against K&M in the underlying action based upon Plaintiffs' First Amended Complaint.

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- 23. This Third-party Complaint will serve as subsequent notice of such conditions and K&M is informed and believes and thereon alleges that THIRD-PARTY DEFENDANTS, and each of them, decline to acknowledge their responsibilities to repair the alleged deficiencies as referenced above.
- 24. The brenches of the aforementioned warranties by each THIRD-PARTY DEFENDANT, as described in paragraphs 18 through 22 above, were and are the actual and proximate cause of damages to K&M in excess of \$10,000.00.
- 25. It has been necessary for K&M to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. K&M is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements, and Nevada law.

THIRD CLAIM FOR RELIEF

(Implied Indomnity)

- 26. K&M repeats and realisges the allegations of paragraphs 1 through 25 of this Third-party Complaint as though fully set forth herein.
- 27. K&M is informed and believes and thereon alleges that K&M entered into written, oral, and/or implied agreements with THIRD-PARTY DEFENDANTS.
- 28. By reason of the foregoing, if Plaintiffs recover against K&M, then K&M is entitled to implied contractual indemnity from THIRD-PARTY DEFENDANTS, and each of them, for injuries and damages sustained by Plaintiffs, if any, for any sums paid by way of settlement or, in the alternative, judgment rendered against K&M in the underlying action based upon Plaintiffs' First Amended Complaint or any cross-claims filed herein.
- 29. It has been necessary for K&M to retain the services of legal counsel to defend Plaintliffs' action and to bring this action. K&M is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements, and Nevada law.

FOURTH CLAIM FOR RELIEF

(Breach of Contract)

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- 30. K&M repents and realleges the allegations of paragraphs I through 29 of this Thirdparty Complaint as though fully set forth herein.
- 11. K&M is informed and believes and thereon alleges that it entered into agreements with THIRD-PARTY DEPENDANTS.
- 32. K&M has fully peribensed all conditions, covenants, and promises required by it to be performed in accordance with the terms and conditions of said agreements.
- 33. K&M is informed and believes and thereon alloges that THIRD-PARTY DEFENDANTS, and each of them, broached said agreements by falling to perform their work (a) in compliance with the applicable standard of care, (b) in a good and workmanlike manner, and (c) in a manner that was consistent with their logal obligations as set forth in the verticus agreements.
- 34. Further, K&M is informed and believes and thereon alleges that THRD-PARTY DEFENDANTS breached their agreements by (a) failing to defend and indemnify K&M as a result of Plaintiffs' First Amended Complaint, (b) failing to name K&M as an additional insured as required under the agreements, and (c) by failing to take appropriate steps to make sum that appropriate additional insured endorsements and insurance coverage has been obtained.
- 35. As a direct and proximate result of THIRD-PARTY DEFENDANTS' broaches of contract, K&M has been damaged in a sum in excess of \$10,000.00.
- 36. As a direct and proximate result of the breaches of contract with THIRD-PARTY DEPENDANTS, and each of them, including MOES 1-100 as alleged, K&M has incurred and continues to inour costs and expenses including but not limited to litigation costs, attorneys' fees and consultants' fees in connection with the Pirst Amended Complaint filed by Plaintiffs in the action on file herein to the general damage of K&M, as will be shown according to proof at the time of the trial of this matter. K&M will seek recovery of its attorneys' fees as a result of legal fees incurred by counsel in defending K&M.

FIRTH CLAIM FOR RELIEU

(Equitable Indemnity)

37. K&M repents and realleges the allegations of paragraphs 1 through 36 of this Third-party Complaint as though fully set forth herein.

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38.	K&M is informed and beli	ieves and thereon alleges that any and all defects and
damages alle	eged by Plaintiffs in their First	t Amended Complaint are all defects and damages to, or
destruction o	of, property and K&M is furthe	er informed and believes and thereon alleges that any and
: all demages :	were caused by THIRD-PART	TY DEFENDANTS, and each of them, arising out of an
in connection	n with the performance of THI	RD-PARTY DEFENDANTS' operations and work at the
Subject Prop	erties.	.49

- 39. In equity and good conscience, if Plaintiff's recover against K&M herein, then K&M is entitled to an equitable indemnity from the THIRD-PARTY DEFENDANTS, and each of them, for the injuries and damages allegedly sustained by Plaintiff's, if any, by way of sums paid by settlement or, in the alternative, judgment rendered against K&M based upon Plaintiffs' First Amended Complaint.
- 40. It has been necessary for K&M to remin the services of legal counsel to defend Plaintiffs' action and to bring this action. K&M is entitled to recover its attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements, and Nevada

SIXTH CLAIM FOR RELIEF

(Contribution)

- 41. K&M repeats and realleges the allegations of paragraphs 1 through 40 of this Thirdparty Complaint as though fully set forth herein.
- 42. Based upon the acts and/or omissions of THIRD-PARTY DEFENDANTS, and each of them, if a judgment is rendered on behalf of Plaintitis, K&M is entitled to contribution from each of the THIRD-PARTY DEFENDANTS in an amount proportionate to the amount of negligence and/or fault attributable to each of the THIRD-PARTY DEFENDANTS.
- 43. It has been necessary for K&M to retain the services of legal counsel to defend Phaintiffs' action and to bring this action. K&M is entitled to recover its attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements, and Nevada law,

SEVENTH CLAIM FOR RELIEF

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(Express Indomnity)

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- 44. K&M repeats and realleges the allegations of paragraphs 1 through 43 of this Third-party Complaint as though fully set forth herein.
- 45. Pursuant to the terms of the agreements entered into between K&M and THIRD-PARTY DEFENDAN'IS, K&M has defense and indemnification rights from the THIRD-PARTY DEFENDANTS, and each of them.
- 46. Pursuant to the terms of the agreements entered into between K&M and THIRD-PARTY DEFENDANTS, THIRD-PARTY DEFENDANTS, and each of them, have the duty to defend and indomnify K&M in the action filed by Plaintiffs.
- 47. It has been necessary for K&M to retain the services of legal counsel to defend Plaintiffs' action and to bring this action. K&M is entitled to recover its attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements, and Nevada law.

EIGHTH CLAIM FOR RELIEF

(Declaratory Relief)

- 48. K&M repeats and realleges the allegations of paragraphs 1 through 47 of this Third-party Complaint as though fully set forth herein.
- 49. A dispute has arisen and actual controversy now exists between K&M and THIRD-PARTY DEFENDANTS herein, and each of them, in that K&M contends that it is entitled to indemnity, contribution, and damages on several legal theories from THIRD-PARTY DEFENDANTS, and each of them.
- 50. K&M desires a judicial determination as to the respective rights and obligations of K&M and THIRD-PARTY DEFENDANTS in connection with the matter herein alleged and a judgment in favor of K&M as to any obligation owed by each THIRD-PARTY DEFENDANT to K&M herein.

NINTH CLAIM FOR RELIEF

(Declaratory Relief re: Duty to Defend)

51. K&M repeats and realleges the allegations of paragraphs 1 through 50 of this Third-

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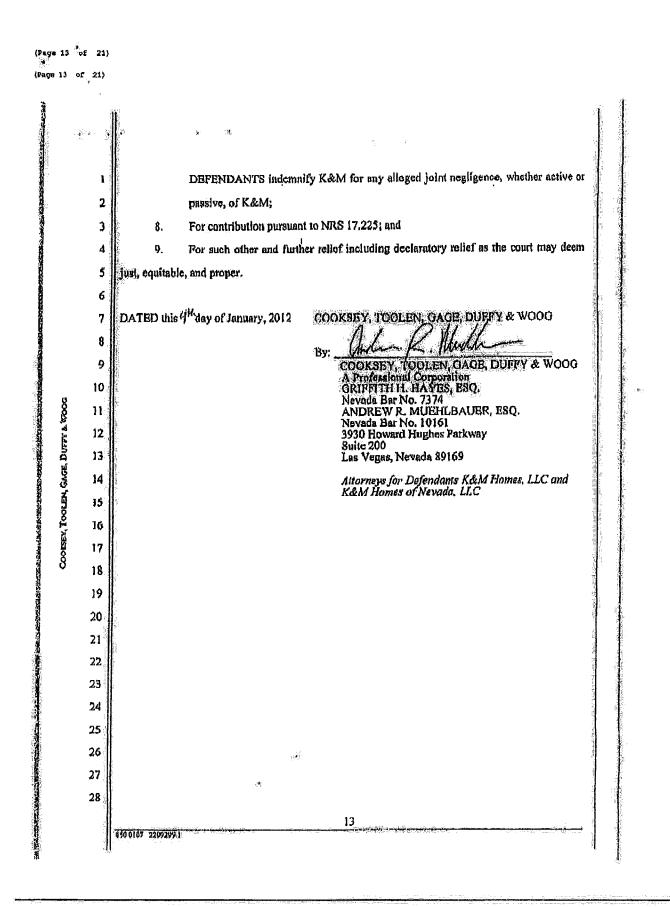
party Complaint as though fully set forth herein.

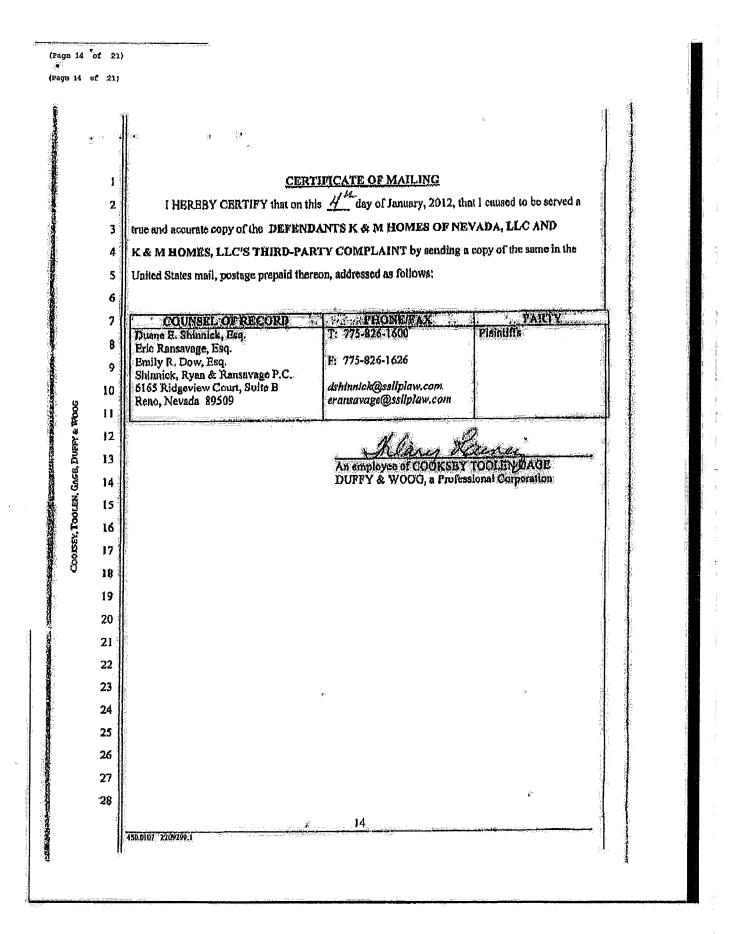
- 52. THIRD-PARTY DEFENDANTS, and each of them, have a present duty to defend K&M pursuant to Nevada law and as a result of the assertion of a claim and/or loss arising out of the work of the THIRD-PARTY DEFENDANTS, and each of them. K&M has a present legal right to be provided a defense by the THIRD-PARTY DEFENDANTS, and each of them.
- 53. A dispute has arisen and an actual controversy now exists between K&M and THIRD-PARTY DEFENDANTS, and each of them, in that K&M contends that they are entitled to a present defense from the THIRD-PARTY DEFENDANTS, and each of them, while the THIRD-PARTY DEFENDANTS, and each of them, while the THIRD-PARTY DEFENDANTS, and each of them, deny such obligations.
- 54. K&M seeks a declaration by the Court as to its rights and said THIRD-PARTY DEPENDANTS' duties and obligations as to the duty to defend in connection with the matters herein alleged, and a judgment in K&M'S favor as to any obligations by THIRD-PARTY DEFENDANTS, and each of them, to K&M herein.

WHEREFORE, K&M prays for judgment against THIRD-PARTY DEFENDANTS, and each of them, as follows:

- For general and special damages in excess of \$10,000.00;
- 2. For indemnity, all damages, and/or economic losses that Plaintiffs and/or any cross-complainant/third-party plaintiffs recover against K&M by way of judgment, order, settlement, compromise or trial;
- 3. For reasonable attorneys' fees, costs, and expert costs and expenses pursuant to statutory and contract law and the terms of the contract;
- For prejudgment interest;
- For consequential damages in excess of \$10,000.00;
- For incidental damages in excess of \$10,000.00;
 - 7. For a declaration of rights and obligations as between K&M and THIRD-PARTY DEFENDANTS including, but not limited to, a declaration regarding the rights and obligations of the parties, the obligation of THIRD-PARTY DEFENDANTS to presently defend K&M, and the right of K&M to have THIRD-PARTY

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	1	SECOND JUDICIAL DISTRICT COURT	
	2	County of Washoe, State of Nevada	
	3	AFPIRMATION Pursuant to NRS 239B.030	
	4	The undersigned does hereby affirm that the preceding document, DEFENDANTS K & M	
	5	Homes of Nevada, LLC and K & M Homes, LLC's Third-Party Complaint,	
	6 7	filed in Case Number CV11-01836:	
		Documents does not contain the social security number of any person	
	8	-OR-	
	10	Document contains the social security number of a person as required by:	
Š	11	A specific state or federal law, to wit:	
A	12	(Sinic specific state of federal law)	
Cooksey, Toolen, Gage, Buffy & Woog	13	(assic aprome anno or resolution)	
AGE, 1	14	-or-	
3	15	For the administration of a public program	
8	16	-or-	
OKSEV	17	Por an application for a federal or state grant	
ដ	18	-07-	
	19	Confidential Family Coun Information Sheet (NRS 125.130, NRS 125.230 and NRS 125B.055)	
	20		
	21	1/4/2012 ALD Wills	
	22	Date: 1/4/2013 (Signutore)	
	23	Andrew R. Muchlbauer, Esq. (Print Name)	
	24		
	25 26	Opfendants K&M Homes of Novada LLC and K&M Homes, LLC (Attorney for)	
	27	(Attorney for)	
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Exhibit 50

Exhibit 50

FILED Electronically 08-20-2011:04:52:35 PM Howard W. Conyers Clerk of the Court Duane E. Shinnick, Esq. Transaction # 2437921 Bar No. 7176 Bric Ransavage, Esq. Bar, No. 8876 Emily Dow Esq. Bar No. 10570 SHINNICK, RYAN & RANSAVAGE P.C. 6165 Ridgeview Court, Suite B Reno, Nevada 89509 Tel: 775-826-1600 Fax: **775-826-1**626 dshinnick@ss[[play.com ermsivnge@ss[[plaw.com R Attorneys for Plaintiffs IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE 10 11 12 CONNIE CASALLAS, individually; GEORGE CASE NO. CV10-03610 I, and LINDA B. DE OCAMPO, individually; DEPT. NO. 9 JOSE LUIS CORONA-LOPEZ, individually; DAVID E. and SHERRI FOLLA, individually; 15 SALVADOR GOMEZ-REA and JULIA F. DE GOMEZ, individually; MARINA C. GARZA, PLAINT'IFFS' THIRD AMENDED 16 CONSTRUCTION DEFECT COMPLAINT individually; JOSE JESUS and FLORIDALMA MORENO, individually; MELVIN L. and 17 KATHY L. ASHBY, individually; ISAAC 18 AARON HARRIS, individually; REMBERTO Z. HERNANDEZ, individually; REYNA 19 LOPEZ, individually; JOHN R. FARNHAM and BETTY L. MCGUIRE, individually; MANUEL 20 and MARI C. GONZALEZ, individually; 21 EDWIN'S JORDAN, JR., individually; JOHN MUTHAMA, individually; FELIPE and 22 AMELIA GUTIERREZ, individually; MARISSA and MARY JOBECK, individually; 23 ALAN MARK and GAYE LYNNE LAMBERT 24 individually; TAMMIE NISSEN, individually; ANGELICA MARQUEZ, individually; 25 CARLOS and YOLANDA PINTOR, individually; HARVEY and MARGOT G. RAU, 26 individually; LYNETTE R, and MCKENZI L. SWINEHART, individually; GREG TANNER, individually; GARY WHITING, individually; 28 JOAN WRIGHT, individually, WILFREDO and (00091603.DOC) PLAINTIFFS' THIRD AMENDED CONSTRUCTION DEFECT COMPLAINT

```
JUANA BECERRA, individually, JEFFREY and
    CAROL CARDONA, individually; TRENTON
    JONES, individually; THELMA MAY,
   individually; ROBERT MENDEZ and JIU
    HUANG, individually; STEVEN W. and
    KELLY C. MILLER, individually; LARRY and
    YVONNE SEDBERRY, individually; SONDRA
    S. HUMPHRIES, individually; PATRICK and
    JEANIE BOKELMAN, individually;
    MATTHEW and MELISSA PETERSON,
    individually; CHARLES BRIGGS, individually;
    CHIU HUI, individually; KEITH and
    KATHLEEN VENTERS, individually; STEVE
    C. SACK, individually; ZANE K. and
    HEATHER WALKER, individually; AARON
10
    and VALERIE FAIGIN, individually; JESUS
   BELLO, individually; JANICE C. FLAHERTY,
11
    individually; JASON and ASHLEY N.
    TATOMER, individually; DAVID M. and
    CAROL L. ASH, individually; BRENDA
13
    HARRIS CARLSON, individually; LYNN L.
    and JULIE R. DRAKE, individually; JANIS K.
14
    GERHARD, individually; MARK D. JACOBS
15
    and AIMEE K. JACOBS, individually; BRUCE
    JACOBSON, individually; RAMONA
16
    JOHNSON, individually; JOHN and DENISE
    LAMEBULL, individually, MICKEY L. and
17
    BRENDA MCNEIL, individually; MICHALI K.
10
    and ROBERTA D. RAMBAS, individually;
    SANDRA RAMBAS, individually; DAWN
19
    RAMBAS, individually; DAVID L. and MARY
    ANN RUDY, individually; ALISA C.
    SANDOVAL, individually; RICHARD and
21
    CRISTINA SANTOS, individually; JASON D.
    and DANIELLE L. SHIPP, individually;
    JEREMY A. WOODS, individually; SUZANNE
    L. ZIMMERLI, individually; ROBERT K. and
23
    KAREN E. EVANS, individually; JUAN A. and
24
    BLANCA GONZALEZ, individually;
    MICHELLE L. MORELLI, individually;
    PEGGY ROLIE, individually; JESSICA
    ALLEN, individually; CARLOS GIRON,
    Individually: JUAN C CHAVEZ A. and
27
    ESTHELA ROSALES, individually; WYLIE S.
    MANDEVILLE, individually; LEE AND
    OLORIA ANDREWS, individually; JERROD
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BOATRIGHT, individually; DARREL D.
    DILLARD and SHERRY EDWARDS-
    DILLARD, individually; SUZIE MENDEZ,
    individually; VICTOR and JESSICA GUDINO.
    individually: CRAIG and KATHLEEN
    BARNES, individually; PEDRO A. and
    JOSEPHINE CAMARGO, individually; BRAD
    and TIFFANY ELLISON, individually;
    MARTIMIANO RENE LOYOLA and MARIA
    G. GOMEZ LOYOLA, individually;
    SHERIJEAN NEHRING, individually; JOHN N.
    TAYLOR, individually; MIGUEL AYALA,
    individually; SHERRIE BETTS, individually;
    CHARLES W. and MARAGARET A.
    FLLIOTT, individually; INEZ ERCK,
10
    individually; GEORGE H, and LEWIS A.
    GREEN, individually; SCOTT HILL,
11
    individually; THAI HOANG and LA NGUYEN,
12
    individually; ROGER M. LINO, individually;
    JOSEPH M. and SHAUN M. VOJTEK,
13
    individually; MICHELLE HAMMOND,
    individually; KEVIN SAMPLE, individually;
    JOSE LEONARDO CASTANO V. and MARIA
15
    STELLA DUQUE, individually, SANDRA D.
    DAWSON, individually; TIMOTHY J. and
16
    SAPRINA S. FLOWERS, individually; JOEY
    and AARON JOHNSON, individually;
17
    HECTOR MENDOZA, individually; DENNISE
18
    D. KAWAMOTO, individually; J. ABINANTI,
    individually, HEATHER J. ADAMI,
19
    individually; TIMOTHY ANDERSON,
   individually; JOSEPH BRAVO, individually;
20
    JESSE H. CARTER, individually; GARY K. and
21
    CINDY CLENDEN, individually; BRAD and
    CYNDI COURTRIGHT, individually; DENNIS
22
    C. and DEBORAH DAVIS, individually; CODY
   R, EDWARDS, individually; MIKE FOSTER,
23
    individually: KERRIGAN and KATRINA
24
    GLYNN, individually; DOWELL L. and JOYCE
    S. GUINN, individually; DON R. and BONNIE
    R. HUNDLEY, individually; BRIAN and
   MONICA HURLEY, individually; TROY
26
    HUTCHINS, individually; ARTHUR
    KETCHAM, individually; ANGELA D.
    KLINGLER, individually; STEVEN I. and
28
    JANET J. LAMPERT, individually; ALBERT
```

(00091603-DOC)

and JULIE ANN LEIMBACH, individually; ROGER E. and ANN M. LEIMBACH, individually; JASON LEWIS, individually; SHANE R. MARLOW, individually; WILLIAM G. MARRACINO, JR. and KRISTEN D. OUGH, individually; RONALD MAUSER and ELIZABETH HESS, individually; DAVID G. and C. CYNTHIA MEYERS, individually; SANDRA MOTA, individually; DAVID R. PERRY and KATHY PERRY, TRUSTEES OF THE DAVID AND KATHY PERRY 2005 TRUST individually; TOM PETRALIA, individually; RANDAL and DIANE SMITH; individually, TROY and FELICIA RASMUSSEN, individually; SAMUEL and ERMA REID, individually; TIMOTHY and PEGGY RHYME, individually; JOSEPH S. 11 RICE, individually; MICHAEL P. and DEBRA M. G. RIOS; individually; BRADLEY L. and 12 SYLVIA V. ROBSON, individually; MICHAEL 13 I. and DAWN M. SALISBURY, individually; ANDRE SAMIR, individually; ALYSON Manual 14 JIMMY D. SCHULTZ, individually; RICHARD N and JUDY L. SCOTT, individually; BRUCE and TAMERA SOPER, individually; 16 ANTHONY and MICHELE TURNER, individually; BALDOMERO and 17 EVANGELINA VARGAS, individually; 18 ZACHARY and CAYLIN BANKSTON, individually: JOHN B. and CANDACE C. 19 PORTER, individually; CECIL M. and JEAN O. WRIGHT, individually; JOHN and VIRGINIA GUZMAN, individually; JACK M. 21 TURRENTINE, individually; STEVE and CARLY CORELLA, individually; JACKIE and 22 DEBORAH HAYES, individually; ROSALIO and OTILIA H. JIMENEZ, individually; ROSS 23 and DEBBIE ERDODY, individually; TODD NESLER, individually, ROBERT H. CULLINS, JR., individually; WILLIAM M. DOYLE, JR., 25 individually; GREGORY S. and WENDY JACKSON, individually; KEN and MARY O'DONNELL, individually; TSUYAKO 27 HURTADO, individually; JOHN J. FEROAH, SR., individually; MICKEY R. DOYLE, individually, KENT and YVONNE STAVE, (1000) 1603,DOG)

individually; RAFAEL A. and NORMA
HERNANDEZ, individually; STEVEN L. and
VIRGINIA E. O'HAVER, individually;
RICHARD G. and CAROL JACKSON,
individually; RICHARD G. and LISA K.
ANDERSON, individually; ERIC R. and
CHERIE A. SCHNEIDER, individually;
RICHARD E. GOMEZ and KAREN L.
PEPPER, individually; and ROES 162-600,
inclusive

Plaintiffs,

v.

BARKER-COLEMAN CONSTRUCTION,
LLC, a Nevada Limited Liability Company; and
DOES 1 through 500, inclusive,

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that Plaintiffs hereby file this THIRD AMENDED CONSTRUCTION

DEFECT COMPLAINT pursuant to the Stipulation and Order filed July 7, 2011. This Third Amended

Complaint is being filed in order to identify by name the following Plaintiff homeowners:

ROL	PLAINTIFF	ADDRESS
5 3	J. Abmanti	2262 Soar Drive Sparks, NV 89441
54	Heather J. Adami	2275 Rockin Robin Drive Sparks, NV 89441
S 5	Timothy Anderson	2356 Rockin Robin Drive Sparks, NV 89441
56	Joseph Bravo	2465 Lenticular Drive Sparks, NV-89441
57	Jesse H. Carter	2287 Soar Drive Sparks, NV 89441
58 59	Gary K. Clendenin Cindy Clendenin	2275 Penguin Drive Sparks, NV 89441
60 61	Brad Courtright Cyndi Courtright	1462 Laughing Chukar Court Sparks, NV 89441
62	Dennis C. Davis	2347 Albatross Way

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63	Deborah Davis	Sparks, NV 89441
64	Cody R. Edwards	2455 Pileus Road
	Joay XI Sanaras	Sparks, NV 89441
65	Mike Foster	2262 Ruddy Way
		Sparks, NV 89441
66	Kerrigan Olym	2326 Albaiross Way
67	Katrina Glynn	Sparks, NV 89441
68	Dowell L. Guinn	2338 Albatross Way
69	Jayce S. Guinn	Sparks, NV 89441
70	Don R. Hundley	2274 Penguin Drive
71	Bonnie R. Hundley	Sparks, NV 89441
72	Brian Hurley	2342 Ruddy Way
73	Monica Hurley	Sparks, NV 89441
74	Troy Hutchins	2174 Ivoly Gull Court
us :		Sparks, NV 89441
75	Arthur Ketcham	2336 Rockin Robin Drive
		Sparks, NV 89441
76	Angela D. Klingler	2323 Albatross Way
1		Sparks, NV 89441
77	Steven I. Lampert	2346 Ruddy Way
78	Janet J. Lampert	Sparks, NV 89441
79	Albert Leimbach	1700 Billew Drive
80	Julie Ann Leimbach	Sparks, NV 89441 1408 Wagtail Court
81	Roger E. Leimbach	Sparks, NV 89441
82	Ann M. Leimbach	1640 Talking Sparrow Drive
83	Jason Lewis	Sparks, NV 89441
84	Shane R. Marlow	1463 Talon Court
04	Shane K. Mariow	Sparks, NV 89441
85	William G. Marracino, Jr.	1355 Nightingale Way
86	Kristen D. Ough	Sparks, NV 89441
87	Ronald Mauser	2383 Albatross Way
88	Elizabeth Hess	Sparks, NV 89441
89	David G, Meyers	2258 Soar Drive
90	C. Cynthia Meyers	Sparks, NV 89441
91	Sandra Mota	2307 Ruddy Wny
		Spurks, NV 89441
92	David R. Perry, Trustee	2315 Soar Drive
93	Kathy Perry, Trustee	Sparks, NV 89441
94	Tom Petralia	1680 Billow Drive
		Sparks, NV 89441
95	Randal Smith	2254 Rockin Robin Drive
96	Diane Smith	Sparks, NV 89441
97	Troy Rasmussen	2250 Ruddy Way
98	Felicia Rasmussen	Sparks, NV 89441
99	Samuel Reid	2164 Rockin Robin Drive
1		

100 Erma R	eid	Sparks, NV 89441
	y Rhyme	2266 Albatross Way
102 Peggy F		Sparks, NV 89441
103 Joseph S		2266 Albatross Way
104 Michael		2410 Contrail Street
	A.G. Rios	Sparks, NV 89441
	L. Robson	1600 Billow Drive
107 Sylvia I	/. Robson	Sparks, NV 89441
108 Michael	J. Salisbury	2415 Contrail Street
109 Dawn M	I, Salisbury	Sparks, NV 89441
110 Andre S	amir	1454 Rosy Finch Drive
dil Boom di some di Boom di some di	Jan - New York of the State of	Sparks, NV 89441
	M. Schultź	2334 Rulldy Way
	D, Schultz	Sparks, NV 89441
	N. Scott	1464 Kinglet Drive
114 Judy L.		Šparks, NV 89441
115 Bruce S		1457 Rosy Finch Drive
116 Tamera		Sparks, NV 89441
117 Anthony		2405 Lenticular Drive
118 Michele		Sparks, NV 89441
	ero Vargas	2159 Albatross Way
	lina Vargas	Sparks, NV 89441
	Dankston	1109 Longspur Way Sparks, NV 89441
	Bankston .	1458 Laughing Chukar Cour
1 # 1 1 1 1	e C. Porter	Sparks, NV 89441
The second livery with	. Wilght	2286 Albatross Way
126 Jean O.		Sparka, NV 89441
127 John G		2312 Rockin Robin Drive
2 Process 70 Co.	Guzman	Sparks, NV 89441
	Turrentine	2299 Penguin Drive
	i mirántimo	Sparka, NV 89441
130 Steve C	orella	2390 Pileus Rond
131 Carly C	1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	Sparks, NV 89441
132 Jackie I		2311 Albutross Way
133 Deboral		Sparks, NV 89441
	Jimenez	2445 Lenticular Drive
	. Jimenez	Sparks, NV 89441
136 Ross Er	dody	2271 Penguin Drive
137 Debbie	Brdody	Sparks, NV 89441
138 Todd N		2306 Albatross Way
		Sparks, NV 89441
139 Robert I	H. Cullins, Jr.	2184 Ruddy Way
i 	en 700 en est en en 200 en en 200	Sparks, NV 89441
140 William	M. Doyle, Jr.	2400 Mammatus Drive
		Sparks, NV 89441
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141	Gregory S. Jackson	2354 Albatross Way
142	Wendy Jackson	Sparks, NV 89441
143	Ken O'Donnell	2359 Albatross Way
144	Mary O'Donnell	Sporks, NV 89441
145	Tsuyako Hurtado	2400 Lenticular Drive
		Sparks, NV 89441
146	John J. Feronh, Sr.	1630 Billow Drive
		Sparks, NV 89441
147	Micky R. Doyle	2390 Mammatus Drivo
La.		Sparks, NV 89441
148	Kent Stave	1442 Rosy Pinch Drive
149	Yvonne Stave	Sparks, NV 89441
150	Rafeal A. Hernandez	2192 Ruddy Way
151	Norma Hernandez	Sparks, NV 89441
152	Steven L. O'Haver	2351 Ruddy Way
153	Virginia E. O'Haver	Sparks, NV 89441
154	Richard G. Jackson	1635 Talking Sparrow Drive
155	Carol Jackson	Sparks, NV 89441
156	Richard G. Anderson	2287 Penguin Drive
157	Lisa K. Anderson	Sparks, NV 89441
158	Bric R. Schneider	2352 Sonr Drive
159	Cherie A. Schneider	Sparks, NV 89441
160	Richard E. Gemez	2267 Ruddy Way
161	Karen L. Pepper	Sprika, NV 89441

COMPLAINT FOR DAMAGES

Come Now Plaintiffs,

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100091603,DCC)

PLAINTIUG	ADDRESS
CONNIE CASALLAS	9641 Canyon Meadows Dr. Reno, NV 89506
GEORGE I. DE OCAMPO	9612 Autumn Leaf Way
LINDA B. DE OCAMPO	Reno, NV 89506
JOSE LUIS CORONA-LOPEZ	9655 Canyon Meadows Dr. Reno, NV 89506
DAVID E. FOLLA	9579 Autumn Leaf Way
SHBRRI FOLLA	Reno, NV 89506
MARINA C. GARZA	9591 Autumn Leaf Way Reno, NV 89506
SALVADOR GOMEZ-REA	9580 Autumn Leaf Way
JULIA F. DE GOMEZ	Reno, NV 89506
JOSE JESUS MORENO	9574 Canyon Meadows Dr.
FLORIDALMA MORENO	Reno, NV 89506

	MELVIN L. ASHBY	9587 Canyon Meadows Dr
	KATHY L. ASHBY ISAAC AARON HARRIS	Rene, NV 89506 9693 Canyon Meadows Dr. Reno, NV 89506
Some Program	REMBERTO Z. HERNANDEZ	9667 Autumn Lea! Way Reno, NV 89506
The same same	REYNA LOPEZ	9563 Canyon Meadows Dr.
	JOHN R. FARNHAM	9630 Canyon Meadows Dr.
	BETTY L. MCGUIRE MANUEL GONZALEZ	Reno, NV 89506 9685 Canyon Meadows Dr.
The state of the s	MARI C. GONZALEZ EDWIN S. JORDAN, JR.	Reno, NV 89506 10050 Galilee Dr.
	JOHN MUTHAMA	Reno, NV 89506 9668 Autumn Leaf Way
	FELIPE GUTIERREZ	Reng, NV 89506 9275 Moonset Ct.
	AMELIA GUTTERREZ MARISSA JOBECK	Reng, NV 89506 9030 Rising Moon Dr.
	MARY JOBECK ALAN MARK LAMBERT	Reno, NV 89506 9950 Rising Sun Ct.
	GAYELYNNE LAMBERT TAMMIE NISSEN	Reno, NV 89506 9900 Rising Sun Ct,
	ANGBLICA MARQUEZ	Reno, NV 89506 9265 Moonset Ct.
	CARLOS PINTOR	Reno, NV 89506 9955 Moonwalk Ct.
	YOLANDA PINTOR HARVEY RAU	Reno, NV-89506 9080 Rising Moon Dr.
	MARGOT G. RAU LYNETTE R. SWINEHART	Reno, NV 89506 9110 Rising Moon Dr.
	MCKENZI L., SWINEHART GREG TANNER	Reng, NV 89506 4960 Rising Sun Ct.
	GARY WHITING	Reno, NV 89506 9199 Rising Moon Dr.
	JOAN WRIGHT	Reno, NV 89506 9260 Rising Moon Dr.
	WILFREDO BECERRA	Rono, NV 89506 8693 Rising Moon Dr. Rono, NV 89506
	JUANA BECERRA JEFFREY CARDONA	8995 Rising Moon Dr. Reno, NV 89506
	CAROL CARDONA TRENTON JONES	9275 Rising Moon Dr. Reno, NV 89506
	THELMA MAY	9005 Rising Sun Dr. Reno, NV 89506

	ROBERT MENDEZ	8950 Rising Moon Dr.	
	JIUHUANG	Reno, NV 89506	
	STRVEN W. MILLER	9050 Rising Sun Dr.	
	KELLY C. MILLER	Reno, NV 89506	
	LARRY SEDBERRY	9775 Magellan Ct.	
	YVONNE SEDBERRY	Reno, NV 89506	ŗ
	SONDRA S. HUMPHRIES	9150 Rising Sun Dr.	Ē
		Reno, NV 89506	
	PATRICK BOKELMAN	8910 Rising Moon Dr.	
	JEANIE BOKELMAN MATTHEW PETERSON	Rano, NV 89506 9185 Rising Moon Dr.	
	MELISSA PETERSON	Reno, NV 89506	age at the same
	CHARLES BRIGGS	9250 Gulfstream Ct.	Ú
		Reno, NV 89506	
	CHIU HUI	9205 Rising Moon Rd.	
		Reno, NV 89506	
	KEITH VENTERS	9975 Moonwalk Ct.	
	KATHLEEN VENTERS	Reno, NV 89506	
	STEVE C. SACK	9060 Rising Moon Dr.	
	22-4	Reno, NV 89506 9075 Rising Moon Dr.	
	ZANE K, WALKER	Reno, NV 89506	
	HEATHER WALKER AARONTAIGIN	9995 Moondust Ct.	
	VALERIE FAIGIN	Reno, NV 89506	Ä
	JESUS BELLO	9285 Moonset Ct.	Ì
		Reno, NV 89506	Ĺ
	JANICE C. FLAHERTY	9220 Rising Moon Dr.	Ī
		Reno, NV 89506	į.
	JASON TATOMER	9060 Rising Sun Dr.	2
	ASHLEY N. TATOMER	Reno, NV 89506	
	DAVID M. ASH	5783 Sonora Pass Ct.	
	CAROL L. ASH	Sparks, NV 89436 5750 Cathedral Peak	ĺ
	Provided in the control of the contr	Sparks, NV 89436	Ĺ
	BRENDA HARRIS CARLSON	595 Sonora Pass Ct.	
		Sparks, NV 89436	Ċ
	LYNN L. DRAKE	588 Tioga Pass Ct.	<u> </u>
	JULIE R. DRAKE	Sparks, NV 89436	É
	JANIS K. GERHARD	5737 Sonora Pass Dr.	ļ.
		Sparks, NV 89436	l.
	MARK D. JACOBS	5858 Cathedral Peak Dr.	ĺ
	AIMEE K, JACOBS	Sparks, NV 89436	É
	BRUCE JACOBSON	5848 Souton Pass Dr.	ĺ
	RAMONA JOHNSON	Sparks, NV 89436 579 Panama Dr.	ŀ
	KAMONA JURNSON	Sparks, NV 89436	1.5
		Land States 111 Carlot	ľ.
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(01,DOC)		
	TINGCOLES IVALENTALESA	Reno, NY 89511
	ROSIG MENDES	Reno, NV 89511 9000 Rising Moon Dr.
	SHERRY EDWARDS-DILLARD MICHELLE L. MORELLI	Reno, NV 89511 9910 Rising Sun Ct.
	DARREL D. DILLARD	9945 Moondust Ct.
	JERROD BOATRIGHT	9985 Moondust Ct. Reno, NV 89511
	LEE ANDREWS GLORIA ANDREWS	9980 Moonwalk Ct. Reno, NV 89511
	WYLIE S. MANDEVILLE	9085 Rising Moon Dr. Reno, NV 89511
	JUAN C CHAVEZ A. ESTHELA ROSALES	9210 Moonset Ct. Reno, NV 89511
	CARLOS CIRÓN	8975 Rising Moon Dr. Reno, NV 89511
	JESSICA ALLEN	9255 Moonset Ct. Reno, NV 89511
	PEGGY ROLIE	9975 Moondust Ct. Reno, NV 89511
	JUAN A. GONZALEZ BLANCA GONZALEZ	8925 Kising Moon Dr. Repo, NV 89511
	ROBERT K. EVANS KAREN B. BYANS	9090 Rising Moon Dr. Rono, NV 89511
	SUZANNE L. ZIMMERLI	598 Carson Pass Ct. Sparks, NV 89436
		Sparks, NV 89436
	DANIELLE L. SHIPP JEREMY A. WOODS	Sparks, NV 89436 5818 Sonora Pass Dr.
	CRISTINA SANTOS JASON D. SHIPP	Sparks, NV 89436 565 Carson Pass Ct.
	RICHARD SANTOS	Sparks, NV 89436 5791 Sonora Pasa Dr.
	ALISA C. SANDOVAL	5818 Cathedral Peak Dr.
	DAVID L. RUDY MARY ANN RUDY	579) Calliedfal Peak Dr. Sparks, NV 89436
	DAWN RAMBAS	5858 Sonora Pass Dr. Sparks, NV 89436
	SANDRA RAMBAS	5878 Sonora Pass Dr. Sparks, NV 89436
	MICHALI K. RAMBAS ROBERTA D. RAMBAS	5868 Sonora Pass Dr. Sparks, NV 89436
	BRENDA MONEIL	Spriks, NV 89436
	DENISE LAMEBULL MICKEY L. MCNBIL	Sparks, NV 89436 5767 Sonora Pass Dr.
	JOHN LAMEBULL	600 Panama Dr.

JESSICA GUDINO CRAIG BARNES KATHLEEN BARNES RENG, NV 89506 PEDRO A. CAMARGO JOSEPHINE CAMARGO BRAD ELLISON TIFFANN ELLISON TIFFANN ELLISON MARTIMIANO RENE LOYOLA MARRÍA G. GOMEZ LOYOLA SHERIJEANNEHRING JOHN N. TAYLOR MIGUEL AYALA STELLAS GEORGE H. GREEN LEWIS A. GREEN LA NGUYEN ROGER M. LINO SPORO SONOTA PASS Dr. Sparks, NV 89436 THAI HOANG LA NGUYEN ROGER M. LINO SPORO SONOTA PASS Dr. Sparks, NV 89436 TOSE LEONARDO CASTANO V. MARRÍA STELLA DUQUE SAPRINA S. FLOWERS SAPRINA S. FLOWERS SAPRINA S. FLOWERS SPARK, NV 89436 TIMOTHY F. FLOWERS SAPRINA S. FLOWERS SPARK, NV 89436 TIMOTHY F. FLOWERS SPARK, NV 89436 THAI HOANG SANDRA D. DAWSON FOR M. VS 9506 SARRINA S. FLOWERS SAPRINA S. FLOWERS SPARK, NV 89436 THAI CARLOR CASTANO V. MARRÍA STELLA DUQUE SAPRINA S. FLOWERS SAPRIN	VICTOR GUDINO	9115 Rising Moon Dr.
RENO, NV 89506 PEDRO A. CAMARGO JOSEPHINE CAMARGO BRAD ELLISON BRAD ELLISON TIFFANY ELLISON MARTIMIANO RENE LOYOLA MARIA G. GOMEZ LOYOLA MARIA G. GOMEZ LOYOLA MARIA G. GOMEZ LOYOLA MIGUEL AYALA SHERIJE BETTS SOCOR FRENC, NV 89506 MIGUEL AYALA SHERIJE BETTS SOCOR FRENC SPARKS, NV 89436 CHARLES W. ELLIOTT MARAGARET A. ELLIOTT SPARKS, NV 89436 GEORGE H. GRBEN LEWIS A. GREEN SPARKS, NV 89436 SCOTT BILL STATE SOCOR SANDRA ROGER M. LINO SPARKS, NV 89436 THAI HOANG LA NGUYEN ROGER M. LINO SPARKS, NV 89436 TOSEPH M. VOJTEK SHAUN M. VOJTE		Reno, NV 89506
PEDRO A. CAMARGO JOSEPHINE CAMARGO BRAD ELLISON BRAD ELLISON MARTIMIANO RENE LOYOLA MARIA G. GOMEZ LOYOLA SHERIJEAN NEHRING JOHN N. TAYLOR MIGUEL AYALA SHERRIE BETTS SHER	CRAIG BARNES	9547 Autumn Leaf Way
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	CECIL M. WRIGHT	2286 Albatross Way

JEAN O. WRIGHT JOHN GUZMAN VIRGINIA GUZMAN JACK M. TURRENTINE	Spanks, NV 89441 2312 Rockin Robin Drive Sparks, NV 89441
VIRGINIA GUZMAN	
	2299 Penguin Drive
	Sparks, NV 89441
STEVE CORELLA	2390 Pileus Rond
CARLY CORBLIA	Sparks; NV 89441
VACKIE HAYES	2311 Albatross Way
DEBORAH HAYES	Sparks, NV 89441
ROSALIO JIMENEZ	2445 Lenticulm Drive
OTILIA H. JIMENEZ	Sparks, NV 89441
ROSS ERDODY	2271 Penguin Drive
DEBBIE ERDODY	Sparke, NV 89441
TODD NESLER	2306 Albatross Way
	Sparks, NV 89441
ROBERT H. CULLINS, JR.	2184 Ruddy Way
1 E	Sparks, NV 89441
WILLIAM M. DOYLE, JR.	2400 Mammatus Drive
	Sparks, NV 89441
GREGORY 8, JACKSON	2354 Albatrons Way
WENDY JACKSON	Sparks, NV 89441
KEN O'DONNELL	2359 Albatross Way
MARY O'DONNELL	Sparks, NV 89441
TSUYAKO HURTADO	2400 Lenticular Drive
	Sparks, NV 89441
JOHN I DEROAH, SR.	1630 Billow Drive
	Sparks, NV 89441
MICKY R. DOYLE	2390 Mammatus Drive
	Sparks, NV 89441
KENT STAVE	1442 Rosy Finch Drive
YVONNE STAVE	Sparks, NV 89441
RAFEAL A. HERNANDEZ	2192 Ruddy Way
NORMA HERNANDEZ	Sparks, NV 89441 2351 Rúddy Way
STEVEN L. O'HAVER	Sparks, NV 89441
VIRGINIA E. O'HAVER	1635 Talking Sparrow Drive
RICHARD G. JACKSON CAROL JACKSON	Sparks, NV 89441
	2287 Penguin Drive
RICHARD G. ANDERSON LISA K. ANDERSON	Sparks, NV 89441
	2352 Soar Drive
ERIC R. SCHNEIDER CHERIE A. SCHNEIDER	Sparks, NV 89441
RICHARD E. GOMEZ	2267 Ruddy Wny
KARIN L. PEPPER	Sparks, NV 89441

all individually (hereinafter "Plaintiffs"), by and through their attorneys of record, Duane E. Shinnick, Esq. and Eric Ransavage, Esq., of the law firm of SHINNICK, RYAN & RANSAVAGE P.C., and for causes of action against Defendants, and each of them, allege and complain as follows:

GENERAL ALLEGATIONS

- 1. Plaintiffs are owners of individual residences within the housing development known as SUMMER GLEN; MOUNTAIN GLEN, PAINTED TRAILS AT KILEY RANCH and EAGLE CANYON, more specifically described as residences in the subdivisions of SKY VISTA VILLAGE 6A; SKY VISTA VILLAGE 6B; SKY VISTA VILLAGE 6C; SKY VISTA VILLAGE 11A; SKY VISTA VILLAGE 11B; SKY VISTA VILLAGE 11C; SKY VISTA VILLAGE 11D; KILEY WEST PHASE 1; KILEY WEST IV-A PHASE 2, KILEY WEST IV-B, and EAGLE CANYON SUBDIVISION-UNIT 3; EAGLE CANYON II-UNIT 1; EAGLE CANYON III-UNIT 2; EAGLE CANYON III-UNIT 1A; EAGLE CANYON III-UNIT 1B; EAGLE CANYON III-UNIT 2; EAGLE CANYON III-UNIT 3; EAGLE CANYON III-UNIT 4A and EAGLE CANYON III-UNIT 4B.
- Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages suffered by each unit owner as to their separate interests as delineated by law.
- 2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.
- The property and buildings thereupon will hereinafter sometimes be referred to as the
 "subject property."
 - 4. Not Used
- 5. The Defendants are identified as follows: Plaintiffs allege that Defendant BARKER-COLEMAN CONSTRUCTION, LLC, a Nevada Limited Liability Company, authorized to do business in the State of Nevada and has conducted and/or now does conduct business within the County of Washoe, State of Nevada, including but not limited to development, construction, improvement, conversion and/or sale of the subject property.

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- 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the agents, servants and employees of each other and were acting in the course and scope of their agency or employment in doing the acts herein alleged.
- 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does 1 to 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in some manner for the defeotive and negligent engineering, architecture, construction, supply of improper materials, and inspection of the subject property single family homes, or in some other actionable manner were an integral part of the chain of development, construction and marketing of the subject property single family homes, and that Plaintiffs damages as herein alleged were proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true names and capacities of such defendants are ascertained.
- 8. Defendants Does 1 through 500, inclusive, whether individual, corporate, associate or otherwise are fictitious names of defendants whose true names and capacities, at this time, are unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times herein mentioned each of the defendants sued herein as Does 1 through 500 was the agent, servant and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in the scope of his or her authority as such agent, servant and employee, and with the permission and consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave of this Court to amend this Complaint to insert said true names and capacities.
- 9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes of limitations that the subject property has and is experiencing defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining, stucco cracking, stucco staining, and other poor workmanship.

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It was the result of the representations by Defendants that they would repair the defects and their conduct in so performing some works of repair, as well their proposals for correcting the defects that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit against said Defendants. By virtue of the fact that Defendants were the developers, contractors and sellers of the subject property and aware of the particular nature of the project, including its design, composition, and component parts, and when said Defendants represented that Defendants would impair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in relying on said representations and conduct by said Defendants in permitting them to investigate and repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 11.190.

On numerous occasions Defendants represented to Plaintiffs that the defective systems and materials were not inadequate, and that repairs had been successfully performed thereby inducing reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore, Defendants are estopped from asserting any potentially applicable statutes of limitations.

10. Within the last year, Plaintiffs have discovered that the subject property has and is experiencing additional defective conditions, in particular, there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining stucco cracking, stucco staining and other poor workmanship.

FIRST CAUSE OF ACTION

(Breach of Contract and Breach of Express Warranties as Against All Defendants and Does 1 through 400)

- 11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint as though fully set forth herein.
- 12. On or about various dates commencing in 2000, and continuing thereafter in the County of Washoe, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered into contracts in writing with Defendants for the purchase from said Defendants of one or more of the units in the subject property.

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- 14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of fact, and promises made by Defendants. Plaintiffs, and each of them, have duly performed all the conditions and covenants of said contracts on their part to be performed.
- 15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, to remedy these defects.
- 16. As a direct and proximate result of the breach of the express warranties (written and oral) by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining stucco cracking, stucco staining and other poor workmanship.
- 17. Plaintiffs have suffered damages in an amount not fully known, but believed to be within the jurisdiction of this Court in that they have been and will hereafter be required to perform works of repair, restoration, and construction to portions of the structures to prevent further damage and to restore the structures to their proper condition. Plaintiffs will establish the precise amount of such damages at trial, according to proof.
 - 18. Plaintiffs are entitled to all damages set forth at NRS 40.655.

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SECOND CAUSE OF ACTION

(Breach of Implied Warranties-Third Party Beneficiary as against Does 1 through 400)

- 19. Plaintiffs reallege and incorporate by reference paragraphs 1 through 18 of the Complaint as though fully set forth herein.
- 20. Plaintiffs are informed and believe and on that basis allege that Defendants and Doe defendants other than BARKER-COLEMAN CONSTRUCTION, LLC entered into contracts with these entities to perform certain services or work with regard to the design, construction and inspection of construction of the residences at the subject property.
- 21 Further, said Doe defendants, as well as BARKER-COLEMAN CONSTRUCTION, LLC and/or their predecessors in interest, impliedly warranted that said homes would be of good and merchantable quality and would be at least a quality as would be fit for the ordinary purpose for which such homes were to be used and would be habitable. Further, said defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.
- 22. The PLAINTIFFS purchased their homes in reliance on the implied warranties and promises made by defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.
- 23. Certain Plaintiffs and/or Homeowners at the subject property have notified defendants of said breach of implied warranties and said defendants have refused and continue to refuse to remedy these defects.
- 24. As a direct and proximate result of the breach of the implied warranties by defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining, stucco cracking, stucco staining and other poor workmanship.

 Numerous additional defective conditions exist as more particularly described in Plaintiffs' expert

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reports. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof, and in accordance with NRS 40.655

THIRD CAUSE OF ACTION

(Negligence and Negligence per se As to All Defendants, and Does 1 through 400)

- 25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint as though fully set forth herein.
- 26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the subject structure and subject premises were not properly or adequately designed, engineered, marketed, supervised and/or constructed, that the owners and users would be substantially damaged thereby, and that the subject structures would be defective and not of merchantable quality.
- 27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to exercise ordinary care to avoid reasonably foreseeable injury to users and purchasers of the subject premises and structures, and knew or should have foreseen with reasonable certainty that purchasers and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of them, failed to perform their duty to cause the subject premises and subject structures to be designed, engineered and completed in a proper and workmanlike manner and fashion.
- 28. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and neglected to perform the work, labor and services properly or adequately in that each said Defendants so negligently, carelessly, recklessly and in an unworkmanlike manner designed, constructed and inspected the subject property and performed the aforesaid work, labor and/or services, such that the subject premises and subject structures as described herein were designed, engineered and/or constructed improperly, negligently, carelessly and/or in an unworkmanlike manner, thereby breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the premises were constructed in an unworkmanlike manner.
- 29. Defendants' negligence alleged above includes the failure to meet the applicable building codes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest

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were members of the class of persons which the building codes and ordinances were designed to protect. Such violations are negligence per se on the part of Defendants, and each of them.

- 30. As a direct and proximate result of the foregoing negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.
 - 31. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

FOURTH CAUSE OF ACTION

(Breach of Implied Warranty of Habitability as to All Defendants and Does 1 through 400)

- 32. Plaintiffs reallege and incorporate by reference paragraphs 1 through 31 of the Complaint, as though fully set forth herein.
- 33. All Defendants each impliedly warranted that said homes would be of good and merchantable quality, would be habitable, and would be completed in a workmanlike manner. Further, said Defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.
- 34. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.
- 35. Certain Plaintiffs and/or Homeowners at the subject property have notified Defendants of said breach of implied warranties and said Defendants have refused and continue to refuse to remedy these defects.
- 36. As a direct and proximate result of the breach of the implied warranties by Defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, hardboard separating, hardboard staining, stucco cracking, stucco staining and other poor workmanship.

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ı Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial 2 according to proof. 3 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as fallows: 5 1. For general and special damages in excess of \$10,000.00 including but not limited to, 6 costs of repair, loss of market value, loss of use, loss of financing, loss of investment and out-of-pocket expenses to be determined at time of trial; 2. For damages in an amount according to proof; 9 3. For reasonable attorneys' fees and costs according to proof. 10 For prejudgment and post-judgment interest on all sums awarded, according to proof 11 at the maximum legal rate; 12 For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and 13 40.655; 14 For costs of suit incurred; 6. 15 7, For such other and further relief as the Court may deem just and proper. 16 This document does not contain the social security number of any person. 17 DATED this 29th day of August, 2011 18 19 SHINNICK, RYAN & RANSAVAGE P.C. 20 21 Ву /s/ Eric Ransavage 22 Duane E, Shinnick, Esq. Bar No. 7176 23 Eric Ransavage, Esq. Bar. No. 8876 Emily Dow Esq. 25 Bar No. 10570 6165 Ridgeview Court, Suite B Reno, Nevada 89509 26 27 Attorneys for Plaintiffs 28 (00001603,DQC) PLAINTIFFS' THIRD AMENDED CONSTRUCTION DEFECT COMPLAINT

Exhibit 51

Exhibit 51

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                     CASTRONOVA LAW OFFICES, PC
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                   Reno, NY 89509
(775) 323-2646 |
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Allomova for BARICER-COLEMAN
CONSTRUCTION, LLC
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                                    IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
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                                                                                                                   IN AND FOR THE COUNTY OF WASHOE
               CONNIE CASALI, AS, individually of al.;
GEORGE 1. and LINDA B. DE OCAMP(), individually, JOE LIJIS CORONA LOPEZ, individually, DAVID E. and SIJERRI FOLLA, individually, DAVID E. and SIJERRI FOLLA, individually, DAVID E. and SIJERRI FOLLA, individually, SAI, VADOR GOMEZ-REA and II ILIA P. DE GOMEZ, individually, MARINA C. GARZA, individually, JOSR JESUS and (ORIDALMA MORISMO, individually; MPLVIN L. and KATIIY L. ASHBY, individually; ISAAC AARON HARRIS, individually; ISAAC AARON HARRIS, individually; REMBERTO Z. HERNANDEZ, 4ndividually; LDWINS. JORDAN, JR., Individually, JOHN MUTHAMA, individually, PELIPR and AMELIA OUTTERREZ, individually; JOHN MUTHAMA, individually; PELIPR and AMELIA OUTTERREZ, individually; ANAISSA and MARY JORECK, individually; ANAISSA and YOLANDA PINTOR, individually; ANGIELICA MARQUEZ, individually; CARLOS and YOLANDA PINTOR, individually; INARVEY and MARGOT G. RAU, individually; INARVEY and MARGOT G. RAU, individually; INARVEY and MARGOT G. RAU, individually; INARVEY and MARGOT, individually; MILIFEDO and IUANA BECERRA, individually; JOAN WRIGHT, individually; GRECT TANNER, individually; GRECT TANNER, individually; GRECT TANNER, individually; TRENTON JONES, Individually; TRENTON JONES, Individually; TRENTON JONES, Individually; TRENTON S. HUMPHRIUS, Individually; LARRY and YVONNIE SEDPERRY, individually; SONDRA S. HUMPHRIUS, individually; PATRICK and JEANIE BOKELMAN, individually; SONDRA S. HUMPHRIUS, individually; PATRICK and JEANIE BOKELMAN, individually; PATRICK and JEANIE BOKELMAN, individually;
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                                                                                                                                                                                                                                  CASE NO:
                                                                                                                                                                                                                                                                                         CV10-03610
                                                                                                                                                                                                                                 DEPT NO:
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                                                                                                                                                                                                                                BARKER-GOLEMAN
CONSTRUCTION COMPANY, ING./A.
THREE-PARTY COMPLAINT
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MATTHEW and MELISSA PETBRSON, individually; individually; CHARLES ERIGGS, individually; CHIU HUI, individually; KETH and KATHLEEN VENTERS, individually; STEVE C. SACK, individually; ZANE K. and HEATHER WALKER, individually; AARON and VALERIE VACIN, individually; ISSUS BELLO, individually; JANICE C. PLAHERTY, individually; JASON and ASHLEY N. TATOMER, individually; DAVID M. and CAROL L. ASH, individually; BRENDA HARRIS CARLSON, individually; LYNN L. and IULIE R. DRAKE, individually; JANISK, GERHARD, individually; MARK D. JACOBS and AIMEE K. JACOBS, individually; BRUCE JACOBSON, individually; RAMONA JOHNSON, individually; MCREY L. and BRENDA MCNEIL, individually; MICREY L. and BRENDA MCNEIL, individually; MICREY L. and BRENDA MCNEIL, individually; MICREY L. and ROBER JA D. RAMBAS, individually; SANDRA RAMEAS, individually; DAWN
                                               MATTHEW and MELISSA PETERSON,
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                                     and ROBERTA D. RAMBAS, individually; SANDRA RAMBAS, individually; DAWN RAMBAS, individually; DAWN RAMBAS, individually; DAVID L. and MARY ANN RUDY, individually; ALISA C. SANDOVAL, individually; RICHARD and CRISTINA SANTOS, individually; JASON D. and DANIELLE L. SHIPP, individually; JEREMY A. WOODS, individually; SUZANNE L. ZIMMERLI, individually; ROBERT K. and KAREN B. EVANS, individually; JUAN A. and BLANCA GONZALEZ, individually; JUAN A. and BLANCA GONZALEZ, individually; PEGGY ROLIE, individually; JESSICA ALLEN, individually; CARLOS GIRON, individually; JUAN C. CHAVEZ A. and ESTHELA ROSALES, individually; LEE and GLORIA ANDREWS, individually; JERROD BOATRIGHT, individually; DARREL D. DILLARD and SHERRY EDWARDS-DILLARD, individually; SUZIE MENDEZ.
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                                     DILLARD and SHERRY EDWARDS
DILLARD, individually, SUZIE MENDEZ,
individually, VICTOR and JESSICA GUDINO,
individually, CRAIG and KATHLEBN
BARNES, individually; PEDRO A, and
JOSEPHINE CAMARGO, individually; BRAD
and TIFFANY ELLISON, individually;
MARTIMIANO RENE LOYOLA and MARIA
G. GOMEZ LOYOLA, individually;
SHER HEAN NEHRING, individually;
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                                     G. GOMEZ LOYOLA, individually; SHERIJEAN NEHRING, individually; JOHN N. TAYLOR, individually; MIGUEL AYALA, individually; SHERRIE BETTE, individually; CHARLES W. and MARGARET A. ELLIOT, individually; INEZ ERCK, individually; GEORGE H. and LEWIS A. GREEN,
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individually; SEOTT HILL, individually; THAI HOANG, and LA NGUYEN, individually; ROGER M. LINO, individually, JOSEPH M. and SHALIN M. VOJTEK, individually, MICHELLE HAMMOND, individually; KEVIN SAMPLE, individually; JOSE LEONARDO CASTANO V. and MARIA STELLA DUQUE, individually; JOSE LEONARDO CASTANO V. and MARIA STELLA DUQUE, individually; JABONADO CASTANO V. and MARIA STELLA DUQUE, individually; JABONADO CASTANO V. and MARIA STELLA DUQUE, individually; JAMONADO CASTANO V. and MARIA STELLA DUQUE, individually; JAMONADO CASTANO V. and MARIA STELLA DUQUE, individually; JABINANTI, individually; IMOTHY ANDERSON, individually; HECTOR MENDOZA, individually; JENNIS D. KAWAMOTO, individually; JESSE H. CARTER, individually; GARY K. and CINDY CLENDRN, individually; BRAD and CYNDI COURTRIGHT, individually; DENNIS C. and DEBORAH DAVIS, individually; CODY R. EDWARDS, individually; DENNIS C. and DEBORAH DAVIS, individually; MIKE FOSTER, individually; KERRIGAN and KATRINA GLYN, individually; MIKE FOSTER, individually; KERRIGAN and KATRINA GLYN, individually; ARTHUR KETCHAM. individually; ARTHUR KETCHAM. individually; ARTHUR KETCHAM. individually; ARTHUR KETCHAM. individually; STEVEN I. and JANET J. LAMPERT, individually; TROY JUTCHINS, individually; ARTHUR KETCHAM. individually; STEVEN I. and JANET J. LAMPERT, individually; STEVEN I. and JANET J. AND ALD MAUSER and ELIZABETH HESS, individually; WILLIAM G. MARRACINO, JR. and KRISTEN D. OUGH, individually; JASON LEWIS, individually; SANDRA MOTA, individually; DAVID G. and C. CYNTHIA MEYERS, Individually; ANDAL and DAND KATRY PERRY 2005 TRUST, individually; SAMUEL, and RRMA REID, individually; TROY and PELICIA RASMUSSEN, individually; MICHAEL J. and DAWN M. SALESBURY, individually; ALYSON M. and JIMMY D. SCHULTZ, individually; ALYSON M. and JIMMY D. SCHULTZ, individually; RICHARD
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N. and JUDY L. SCOTT, individually; BRUCE and TAMERA SOPER, individually; ANTHONY and MICHELLE TURNER, individually; BALDOMERO and EVANCIELINA VARGAS, individually; ZACHARY and CAYLIN BAMKSTON, individually; JOHN B. and CANDICE C. POR'ER, individually; CECIL M. and JEANO, WRIGHT, individually; JOHN and VIRGINIA GUZMAN, individually; JACK M. TURRENTINE, individually; JACK M. TURRENTINE, individually; STEVE and CARLY CORELLA, individually; ROSALIO and OTILIA H. JIMENEZ, individually; ROSS and DEBBHE BRDODY, individually; TODD NESLER, individually; ROBERT H. CULLINE, IR., individually; GREGORY S. and WENDY JACKSON, individually; KEN and MARY O'DONNELL, individually; KEN and MARY O'DONNELL, individually; KEN and MARY O'DONNELL, individually; KEN TAME, individually; RICHARD G. individually; STEVEN L. and VIRGINIA E.O'HAVER, individually; RICHARD G. and CARGL JACKSON, individually; RICHARD G. and LISA K. ANDERSON, individually; ERIC R. and CHERIE A. SCHNEIDER, individually; RICHARD E. GOMEZ and KAREN L. PERPER, individually; and ROES 162-600, inclusive
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                                                                                            Plaintiffs,
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                  BARKER-COLEMAN CONSTRUCTION, LLC,
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                  a Nevada Limited Liability Company; and DOES
                  I through 500, inclusive,
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                                                                                             Defendants.
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                  BARKER-COLEMAN CONSTRUCTION, LLC,
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                                                                                             Third-Party Plaintiff,
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                  VS.
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                  A & D PLUMBING, LLC: ADVANCED
                 COUNTERTOP DESIGN, INC.; ALL
SYSTEMS DRYWALL, ALLIANCE LUMBER
(CROWN PACIFIC PARTNERS, L.P., (ba);
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AMSCO WINDOWS; ARCADE INSULATION (ALCAL/ARCADE CONTRACTING, INC. dba); ARCADE INSULATION (PACIFIC COAST BUILDING PRODUCTS, INC. dba); ARTISTIC PENCE CO., INC.; BURTON COMPONENTS, INC.; CAPITAL DRYWALL; CAVALLERO HEATING AIR CONDITIONING, INC.; CENTERLINE CONSTRUCTION OF NEVADA INC.
             CONSTRUCTION OF NEVADA, INC.;
             CREATIVE DESIGN INTERIORS OF
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           NEVADA, LLC; CUSTOM CARE, INC. dba
CUSTOM CARE LANDSCAPING; D & D
           OVERHEAD DOOR (FIREPLACE
DISTRIBUTORS OF NEVADA, INC. dba);
DALEN & SONS, INC. dba DALEN & SONS
PAINTING, DIAMOND CONCRETE, INC.;
DUNN-RITE SEAMLESS RAIN GUTTERS;
ENERGETIC PAINTING & DRY WALL, INC.;
ERICKSON CARPENTRY CONTRACTING;
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            INC.; ESSLIN CONSTRUCTION (RELIABLE
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           PRAMING, INC. dba); FIREPLACE
DISTRIBUTORS OF NEVADA, INC.; GALE
BUILDING PRODUCTS, INC.; GRANITE
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           WORLD, LTD., A LIMITED LIABILITY
COMPANY; H & H INTERIORS; HIGH
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           SIERRA MARBLE, INC.; INCLINE GLASS,
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           INC.; J & L WINDOWS, INC.; J. P.
CONSTRUCTION COMPANY, LLC fdba J. P.
CONSTRUCTION CO., LLC; K C PAINTING;
KEHOE TILE WORKS (KEHOE TILE &
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           STONE, INC. fdba); KEIL ELECTRIC CO.; KINGSBURY TILE; LOVETT
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           LANDSCAPING; MERIDIAN CONCRETE
           INC.; MOANA NURSERY; MOUNTAIN AIRE, INC.; MUNRO PRODUCTS, INC. dba
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          ARTISAN STAIR; NEVADA OVERHEAD DOOR CO. (GLOR, INC. dba); NEWELL ROOFING (ROBERT NEWELL, GWNBR. dba); PADILLA CONSTRUCTION COMPANY OF NEVADA. PAYLESS GUTTERS & SIDING, INC., PETTUS CONSTRUCTION; PHILLS BINE FLOORS; PRECISION PLUMBING & HEATING, INC.; PREMIER LIGHTING, LLC; RC ELECTRIC L.L.C. (CR ELECTRIC L.L.C. fdba); BENG LUMBER; RENG TRUSS, INC.; ROOT INDUSTRIES (BUILDER SER VICES GROUP, INC. dba); ROOT INDUSTRIES, INC. (TEXWOOD INDUSTRIES, L.P. fka WESTERN CABINET AND PLASTIC, INC. fka); SACRAMENTO INSULATION CONTRACTORS dba GALE BUILDING
           artisan stair; nevadā overhead
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            CONTRACTORS doa GALE BUILDING
           PRODUCTS; SIMAS FLOOR COMPANY,
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INC.; STANTEC CONSULTING INC.; THOLL PENCE, INC.; TOFAZ CONSTRUCTION, INC.; TRI-MOUNTAIN GRADING & EXCAVATING; VALLEY BUILDING SUPPLY OF NEVADA, INC.; VALLEY CONCRETE CO., INC.; VALLEY INSTALLATION, INC.; VALLEY BUILDING SUPPLY OF NEVADA, INC.; WESTERN SHOWER DOOR, INC.; and ZOES 1 through 100, inclusive,

Third-Party Defendants.

BARKER-COLEMAN CONSTRUCTION COMPANY, INC.'s. THIRD-PARTY COMPLAINT

COMES NOW, Third-Party Plaintiff, BARKER-COLEMAN CONSTRUCTION COMPANY, INC. (hereinafter "Barker-Coleman" or "Third Party Plaintiff"), by and through its attorneys of record, CASTRONOVA LAW OFFICES, P.C., horeby brings its Third-Party Complaint against: A & D PLUMBING, LLC; ADVANCED COUNTERTOP DESIGN, INC.; ALL SYSTEMS DRYWALL; ALLIANCE LUMBER (CROWN PACIFIC PARTNERS, L.P. dba); AMSCO WINDOWS; ARCADE INSULATION (ALCAL/ARCADE CONTRACTING, INC. dba); ARCADE INSULATION (PACIFIC COAST BUILDING PRODUCTS, INC. dba); ARTISTIC FENCE CO., INC.; BURTON COMPONENTS, INC.; CAPITAL DRYWALL; CAVALLERO HEATING & AIR CONDITIONING, INC.; CENTERLINE CONSTRUCTION OF NEVADA, INC.; CREATIVE DESIGN INTERIORS OF NEVADA, LLC; CUSTOM CARE, INC. dba CUSTOM CARE LANDSCAPING: D & D OVERHEAD DOOR (FIREPLACE DISTRIBUTORS OF NEVADA, INC. dba); DALEN & SONS, INC. dba DALEN & SONS PAINTING; DIAMOND CONCRETE, INC.; DUNN-RITE SEAMLESS RAIN GUTTERS; ENERGETIC PAINTING & DRYWALL, INC.; ERICKSON CARPENTRY CONTRACTING, INC.; ESSLIN CONSTRUCTION (RELIABLE FRAMING, INC. dba); FIREPLACE DISTRIBUTORS OF NEVADA, INC.; GALE BUILDING PRODUCTS, INC.; GRANITE WORLD, LTD., A LIMITED LIABILITY COMPANY; H&HINTERIORS; HIGH SIERRA MARBLE, INC.; INCLINE GLASS, INC.; J&LWINDOWS, INC.; J. P. CONSTRUCTION COMPANY, LLC fdba J. P. CONSTRUCTION CO., LLC; K C PAINTING; KEHOETILE WORKS (KEHOETILE & STONE, INC. fdba); KEIL ELECTRIC CO.;

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KINGSBURY TILE: LOVETT LANDSCAPING; MERIDIAN CONCRETE, INC.; MOANA NURSERY: MOUNTAIN AIRE, INC.; MUNRO PRODUCTS, INC. doe ARTISAN STAIR; NEVADA OVERHEAD DOOR CO. (GLOR, INC. dba); NEWELL ROOFING (ROBIRT NEWELL, OWNER, dbe); PADILLA CONSTRUCTION COMPANY OF NEVADA ; PAYLESS GUTTERS & SIDINO, INC.; PETTUS CONSTRUCTION; PHILIS FINE PLOORS; PRECISION PLUMBING & HEATING, INC.; PREMIER LIGHTING, LLC; RC ELECTRIC L.L.C. (CR electric L.L.C. (1914); reno lumber; reno truss. Inc.; root industries (BUILDER SERVICES GROUP, INC. dba); ROOT INDUSTRIES, INC. (TEXWOOD INDUSTRIES, L.P. IKE WESTERN CABINET AND PLASTIC, INC. IKE); SACRAMENTO INSULATION CONTRACTORS dbn GALE BUILDING PRODUCTS; SIMAS FLOOR COMPANY, INC.: STANTEC CONSULTING INC.; THOLL FENCE, INC.: TOPAZ CONSTRUCTION, INC.; TRI-MOUNTAIN GRADING & EXCAVATING; VALLEY BUILDING SUPPLY OF NEVADA, INC., VALLEY CONCRETE GO., INC., VALLEY INSTALLATION, INC.; VALLEY BUILDING SUPPLY OF NEVADA, INC.; WESTERN SHOWER DOOR, INC.; and ZOES 1 through 100, inclusive (collectively hereinafter referred to as "Third-Party Defendants"), complains of and alleges the following:

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CENERAL ALLEGATIONS

- 19 I. Third-Party Plaintiff is a party to this action brought by Plaintiffs.
 - 2. At all times relevant herein, Third-Party Defendants, and each of them ,were entities or individuals doing business in or residing in the State of Nevada and each of them developed and/or performed construction related work and/or supplied materials and/or engaged in activities related to the purchase, sale, and/or the construction improvements of the real property located in the housing developments known as the Summer Glen, Mountain Glen, Painted Trails at Kiley Ranch and Bagle Canyon, more specifically described as residences in the subdivisions of Sky Vista Village 6a; Sky Vista Village 6B; Sky Vista Village 6C; Sky Vista Village 11A; Sky Vista Village 11B; Sky Vista Village 11C; Sky Vista Village 11D; Kiley West Phase 1; Kiley West IV-A Phase 2; Kiley West IV-B; and Eagle Canyon Subdivision-Unit 3; Bagle Canyon II-Unit 1; Bagle Canyon II-Unit

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2; Eagle Canyon II-Unit 1A; Eagle Canyon III-Unit 1B; Eagle Canyon III-Unit 1B; Eagle Canyon III-Unit 2; Eagle Canyon III-Unit 3; Eagle Canyon III-Unit 4A and Eagle Canyon III-Unit 4B, located in Reno Nevada, which is the subject of Plaintiffs' Complaint (hereinafter the "Subject Property") and described more particularly therein.

- 3. The Third-Party Defendants, and each of them, were subcontractors and/or design professionals who, developed, designed, and/or performed construction activities and/or provided materials and/or other items which were installed into and/or became a part of said subject properly.
- Third-Party Plaintiff is informed and believes and therefore alleges, that the true names and capacities, whether individual, corporate, associate or otherwise of ZOES I through 250 are unknown to Third-Party Plaintiff who therefore sues said Third-Party Defendants by said fictitious names. Third-Party Defendants designated as ZOES 1 through 250 are responsible in some manner as an entity developing, designing, performing construction related activities and/or providing materials for construction of the subject property and are responsible for the events and happenings described in Plaintiffs' Complaint, and in this Third-Party Complaint which proximately caused damages to Third-Party Plaintiff as alleged herein. Third-Party Plaintiff is informed and believes that each of the Third-Party Defendants designated as ZOES in some manner developed, performed work, installed, designed, constructed or supplied materials to the subject property, pursuant to agreements between Third-Party Plaintiff and Third-Party Defendants and each of them or otherwise. Third-Party Plaintiff will ask leave of Court to amend this Third-Party Complaint to insert the true names and capacities of the ZOES 1 through 250 and state appropriate charging allegations when that information has been ascertained.
- That Third-Purty Plaintiff specifically complains and alleges a cause of action against the specific entity, or entities, that developed, performed work, installed, designed, constructed, supplied materials and/or were otherwise responsible for the subject real property and the improvements made thereon. As of the filing of this Third-Party Complaint, Third-Party Plaintiff is not sure as to whether those entitles are individuals, partnership(s), limited partnership(s), corporation(s), association(s) of individuals and business, or some other form of business ownership, and as soon as the exact nature of the entity or entities that developed, performed work, installed, designed,

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constructed, supplied materials and/or were otherwise responsible for the subject real property and the improvements made thereon are known, Third-Party Plaintiff will amend its Third-Party Complaint and will substitute the exact names of the proper Third-Party Defendants in place of ZOBS 1 through 250.

- 6. The work being done by or materials supplied by each of the Third-Party Defendants was pursuant to a contract, whether express or implied, with Third-Party Plaintiff to complete construction work, pursuant to design plans and specifications of the Subject Properly referenced above.
- 7. That while working at the site, Third-Party Defendants acted in a negligent and/or careless manner, performed acts which resulted in breached warranties to Third-Party Plaintiff and/or others, including, but not limited to those of fitness and merchantability, and/or supplied defective products in an unreasonably dangerous and defective condition, which allegedly injured and/or caused damages to Plaintiffs, as alleged in Plaintiffs' Complaint. Said acts have also resulted in damages to Third-Party Plaintiff by subjecting Third-Party Plaintiffs to suit.

FIRST CLAIM FOR RELIEF

(Equitable Indemnity)

- 8. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 7 as though fully set forth herein.
- 9. Third-Party Plaintiff is informed and believes and thereon alleges that Third-Party Defendants are and at all times herein mentioned wore, either individuals, sole proprietorships, partnerships, registered professionals, corporations, or other legal entities which are licensed and/or qualified to do and were doing business in the County of Washoe, State of Nevada, at all times relevant to the subject matter of this action.
- 10. Third-Party Plaintiff is informed and believes and thereon alleges that the defects and damages alleged by Plaintiffs in their Complaint involve defects and damages to or destruction of property and Third-Party Plaintiff is further informed and believes and thereon alleges that said damages were caused by Third-Party Defendants, and each of them, arising out of and in connection

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with, the performance of Third-Party Defendants' development, design, operations and work at the Subject Property.

11. In equity and good conscience, if Plaintiffs recover against Third-Party Plaintiff herein, then Third-Party Plaintiff is entitled to equitable indemnity, apportionment of liability and contribution among and from the Third-Party Defendants, and each of them, according to their respective faults for the injuries and damages allegedly sustained by Plaintiffs, if any, by way of sums paid by settlement, or in the alternative, judgment rendered against Third-Party Plaintiff based upon Plaintiffs' Complaint.

12. It has been necessary for Third-Party Plaintiff to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Accordingly, Third-Party Plaintiff is entitled to recover attorneys' fees and costs incurred herein.

SECOND CLAIM FOR RELIEF

(Contribution)

- 13. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 12 as though fully set forth herein.
- 14. Based upon the acts and/or omissions of the Third-Party Defendants, and each of them, if a judgment is rendered on behalf of Plaintiffs, Third-Party Plaintiff is entitled to contribution from each of the Third-Party Defendants in an amount proportionate to the amount of negligence and/or fault attributable to each of the Third-Party Defendants.
- 15. It has been necessary for Third-Party Plaintiffs to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Accordingly, Third-Party Plaintiff is entitled to recover its reasonable attorney's fees and costs incurred herein.

THIRD CLAIM FOR RELIEF

(Apportionment)

16. Third-Party Plaintiff rofers to and incorporates herein by reference paragraphs I through 15 as though fully set forth herein.

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 17. Third-Party Plaintiff is entitled to an apportionment of liability among Third-Party

Defendants, and each of them.

18. It has been necessary for Third-Party Plaintiff to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Accordingly, Third-Party Plaintiff is entitled to recover its reasonable attorney's fees and costs incurred herein.

FOURTH CLAIM FOR RELIEF

(Negligence)

- 19. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 18 as though fully set forth herein.
- 20. Third-Party Defendants, and each of them, owed a contractual and/or legal duty to Third-Party Plaintiff to exercise due and reasonable care in the design, construction and/or development of the Subject Property. Third-Party Defendants also had a legal duty to abide by local construction practices, industry standards, governmental codes and restrictions, manufacturer requirements, Washoe County Building Codes, product specifications and/or the laws of the State of Nevada.
- 21. If the Subject Property is defectively designed, developed and/or constructed, Third-Party Defendants, and each of them, are responsible for such defects in that they failed to act reasonably in the design, development and construction of the Subject Property, thereby breaching their duty owed to Third-Party Plaintiff.
- 22. If the Subject Property is defectively designed, developed and/or constructed, the acts or omissions of Third-Party Defendants and each of them were the direct and proximate cause of any and all damages incurred by Third-Party Plaintiff.
- 23. Third-Party Plaintiff is informed and believes and on that basis alleges that Plaintiffs' damages, if any, were proximately caused by Third-Party Defendants, as set forth above, and each of them, and that said Third-Party Defendants are liable for the damages sought by Plaintiffs in their Complaint.

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24 25 26 24. The breach(es) of the aforementioned duties by each Third-Party Defendant as described in Paragraphs 20 through 23 above were and are the actual and proximate cause of damages to Third-Party Plaintiff in excess of \$10,000.

25. It has been necessary for Third-Party Plaintiff to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Third-Party Plaintiff is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18,010, the contractual provisions of the agreements and Nevada law.

FIFTH CLAIM FOR RELIEF

(Breach of Express and Implied Warranties)

- 26. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 25 as though fully set forth herein.
- 27. Third-Party Plaintiff is informed and bolieves and thereon alleges that pursuant to the contracts between Third-Party Plaintiff and Third-Party Defendants, Third-Party Defendants impliedly and expressly warranted that the work would be done in a good, workmanlike, and substantial manner, in full accordance with the provisions and conditions of the agreements and the plans and specifications.
- 28. Third-Party Plaintiff relied upon said warranties and believed that said work performed pursuant to said agreements would be of a first class and workmanlike manner and fit for its intended use and purpose.
- 29. Third-Party Plaintiff is informed and believes and thereon alleges that Third-Party Defendants, and each of them, breached said agreements as it has been alleged by Plaintiffs in the underlying action herein, that numerous deficiencies exist at the site as set forth in the Complaint on file herein, which alleged deficiencies are incorporated herein by reference.
- 30. As a proximate result of the breach of express and implied warranties by Third-Party Defendants, and each of them, Third-Party Plaintiff alleges that it will suffer damages in a sum equal to any sums paid by way of settlement, or in the alternative, judgment rendered against Third-Party Plaintiff in the underlying action based upon Plaintiffs' Complaint.

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26 27 31. This Third-Party Complaint will serve as notice of such conditions and Third-Party Plaintiff is informed and believes and thereon alleges that Third-Party Defendants, and each of them, declined to acknowledge their responsibilities to repair the alleged deficiencies as referenced above.

- 32. The breach(es) of the aforementioned warranties by each Third-Party Defendant as described in Paragraphs 27 through 31 above, was and is the actual and proximate cause of damages to Third-Party Plaintiffs in excess of \$10,000.
- 33. It has been necessary for Third-Party Plaintiff to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Third-Party Plaintiff is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements and Nevada law.

SIXTH CLAIM FOR RELIEF

(Implied Indemnity)

- 34. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 33 as though fully set forth herein.
- 35. Third-Party Plaintiff is informed and believes and thereon alleges that Third-Party Plaintiff entered into written, oral and/or implied agreements with the Third-Party Defendants, that Third-Party Defendants and each of them would indomnify Third-Party Plaintiff in the event of loss related to the Subject Property.
- 36. By reason of the foregoing, if Plaintiffs recover against Third-Party Plaintiff, then Third-Party Plaintiff is entitled to implied contractual indemnity from Third-Party Defendants, and each of them, for injuries and damages sustained by Plaintiffs, if any, for any sums paid by way of settlement, or in the alternative, judgment rendered against Third-Party Plaintiff in the underlying action based upon Plaintiffs' Complaint or any Third-Party Complaints filed herein.
- 37. It has been necessary for Third-Party Plaintiff to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Third-Party Plaintiff is entitled to recover attorneys' fees and costs incurred herein pursuant to NRS 18.010, the contractual provisions of the agreements and Nevada law.

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SEVENTH CLAIM FOR RELIEF

(Express Indemnity)

- 38. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 37 as though fully set forth herein.
- 39. The damages alleged and the claims made by Plaintiffs against Third-Party Plaintiff is the proximate result in whole or in part of the acts of Third-Party Defendants and each of them.
- 40. As a result of the Plaintiffs' claims against Third-Party Plaintiff, Third-Party Plaintiff
 may be held liable to Plaintiffs for all of said damage which may be sustained, in which event, ThirdParty Plaintiff is entitled to be indemnified by Third-Party Defendants and each of them.
- 41. Pursuant to the terms of the agreements entered into between Third-Party Plaintiff and the Third-Party Defendants, Third-Party Plaintiff has rights of indemnification from the Third-Party Defendants and each of them,
- 42. Pursuant to the terms of the agreements entered into between Third-Party Plaintiff and the Third-Party Defendants, Third-Party Defendants and each of them have duties to defend Third-Party Plaintiff in the action filed by Plaintiffs.
- 43. It has been necessary for Third-Party Plaintiff to bring this Third-Party Complaint, and therefore, Third-Party Plaintiff is entitled to recover reasonable attorney's fees and costs incurred herein.

EIGHTH CLAIM FOR RELIEF

(Declaratory Relief)

- 44. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 43 as though fully set forth herein.
- 45. A dispute has arisen and actual controversy now exist between Third-Party Plaintiff and Third-Party Defendants, and each of them, as to their rights and liabilities with respect to any ultimate responsibility in the underlying action, and with respect to the rights to receive, or duty to

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 give, indemnification in proportion to their comparative fault, if any. Third-Party Plaintiff contends that if it suffers judgment in the underlying action, or if it pays money by way of reasonable compromise of said claim, Third-Party Plaintiff is entitled to be indemnified by Third-Party Defendants and to judgment over and against them, to the extent that Third-Party Plaintiff's responsibility in the underlying action exceeds their percentage of negligence, fault or liability, if any. Third-Party Plaintiff is informed and believes that Third-Party Defendants contend to the contrary. Therefore, an actual controversy exists relative to the legal rights, duties and obligations of the respective parties, which controversy Third-Party Plaintiff requests the Court to resolve.

- 46. All of the rights and obligations of the parties hereto arose out of what is actually one transaction or one series of transactions, happenings or events, all of which can be settled and determined in a judgment in this one action. Third-Party Plaintiff alleges that an actual controversy exists between the parties to the Third-Party Complaint under the circumstances alleged. A declaration of rights, responsibilities and obligations of Third-Party Plaintiff and Third-Party Defendants, and each of them, is essential to determine their respective obligations in connection with the principal action and Third-Party Complaint. Third-Party Plaintiff has no true and speedy remedy at law of any kind.
- 47. It has been necessary for Third-Party Plaintiff to retain the services of CASTRONOVA LAW OFFICES, P.C. to defend the Plaintiffs' action and to bring forth this action. Accordingly, Third-Party Plaintiff is entitled to recover its reasonable attorney's fees and costs incurred herein.

NINTH CLAIM FOR RELIEF

(Breach of Contract)

- 48. Third-Party Plaintiff refers to and incorporates herein by reference paragraphs 1 through 47 as though fully set forth herein.
- 49. Third-Party Plaintiff is informed and believes and thereon alleges that it entered into written agreements with Third-Party Defendants.
 - 50. Third-Party Plaintiff has fully performed all conditions, covenants and promises

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27 28 required by it to be performed in accordance with the terms and conditions of said written agreements.

- Defendants, and each of them, have breached said written agreements by failing to perform their work (a) in compliance with the applicable standard of care, (b) in a good and workmanlike manner, and (c) in a manner that was consistent with their legal obligations as set forth in the various written agreements. Further, Third-Party Plaintiff is informed and believes and thereon alleges that 'Third-Party Defendants have breached their agreements by (1) failing to defend and indemnify Third-Party Plaintiff as a result of Plaintiffs' Complaint; (2) failing to name Third-Party Plaintiff as an additional insured as required under the agreements; and (3) by failing to take appropriate steps to make sure that appropriate additional insured endorsements and insurance coverage had been obtained.
- 52. As a direct and proximate result of Third-Party Defendants' breach of contract, Third-Party Plaintiff has been damaged in a sum which is currently unascertainable. Third-Party Plaintiff will seek leave of court to amend this Third-Party Complaint when such sums can be reasonably ascertained.

WHEREFORE, Third-Party Plaintiff, Barker-Coleman, prays for judgment against Third-Party Defendants, and each of them, as follows:

- 1. For general and special damages in excess of \$10,000.00;
- For indemnity for all damages and/or economic losses that Plaintiffs recover against
 Third-Party Plaintiff by way of judgment, order, settlement, compromise or trial;
- For reasonable attorneys' fees, costs, expert costs and expenses, pursuant to statutory law, common law, and contract law;
- 4. For prejudgment interest;
- 5. For consequential damages in excess of \$10,000.00;
- 6. For incidental damages in excess of \$10,000.00;
- For an apportionment of liability among the Third-Party Defendants;
- 8. For a declaration of rights and obligations as between Third-Party Plaintiff and Third-Party Defendants;

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ſ	O For contribution recovered to M.P. S. 17 225.				
2	9. For contribution pursuant to N.R.S. 17.225;				
3	10. For breach of contract damages, in an amount to be ascertained;				
	11. For such other and further relief as this Court may deem just, equitable and proper,				
4					
<i>5</i>	AFFIRMATION				
7	The undersigned hereby affirms that the foregoing document does not contain the social				
8	security number of any person.				
9					
10	Detcd: February 9, 2012. CASTRONOVA LAW OFFICES, F.C.				
11	$\bigcap_{i \in I} f(i) = f(i)$				
12	Stephen G. Castronova, Hsq. [SBN 7305]				
13	Stephen G. Castronova, Esq. [SBN 7305] Catherine E. Teague, Esq. [SBN 11000] 605 Forest Street				
14	Reno, NY 89509 (775) 323-2646 Fox: (775) 323-3181 Altomoys for Defendants BARKER- COLEMAN CONSTRUCTION, LLC				
15	Attorneys for Decembra HARKER'S COLEMAN CONSTRUCTION, LLC				
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CERTIFICATE OF SERVICE 1 Lopez vs. Barker-Coleman Construction, Inc. 2 I HEREBY CERTIFY that on February 9, 2012, I served a true and correct copy of 3 THIRD PARTY COMPLAINT via facsimile to the last known numbers of the following 4 rocipients: 5 NAME & ADDRESS PHONE & FAX PARTY 6 NUMBERS 7 (702) 631-8014 Duane Shinnick, Esq. Plaintiff SHINNICK RYAN & Fax: (702) 631-8024 8 RANSAVACIE, PC 2881 Business Park Ct., Suite 210 9 Las Vegas, NV 89128 10 11 12 An Employee of Castronova Law Office, P.C. 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

Exhibit 52

Exhibit 52

New control of	• GRIGINAL •			
	COMP CRAIG D. FULLER (Nevada State Bar No. 8075) Fuller Jenkins 4250 Executive Square, Suite 555 La Jolla, CA 92037 Telephone: (858) 450-4050 Facsimile: (858) 450-4051 MARK A. LOBELLO (Nevada State Bar No. 3994) The LoBello Law Firm 2061 E. Sahara, 2 nd Floor Las Vegas, NV 89104 (702) 733-7761 Attorneys for Plaintiffs	FILED YAR 3 11 32 AM '08 CALLERIK THE COURT		
12	DISTRICT COURT FOR THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK			
14 11 11 12 21 22 23 24 25 TANDO TAN	DONALD AND JENNIFER DERMER; PHILLIP DICKINSON, TRUSTEE OF THE P.W. DICKINSON QUALIFIED PERSONAL RESIDENTIAL TRUST; EVELYN FELICIANO; ROBERT GREEN; GEORGE AND ELISA HASSE; CHARLOTTE HUFFMAN; WILLIAM AND LYNN JACKSON; CHRISTOPHER AND ZOE LAW; JOHN AND CATHERINE LETUS, TRUSTEES OF THE LETUS TRUST; MARK AND BECKY LILLEY, TRUSTEES OF THE LILLEY FAMILY TRUST; THEODORE AND ILEENE MANAHAN; GARY MEDINA; CONNIE MERTIN; RUTH PRANGE; JEANENE RUSSELL; BRETT SCOVIL; GLORIA AND ALMA SMITH; ALEXANDER AND JOYCE STELLA; EDDIE AND SHARON STUBBS; ROGER AND JANAN THOMPSON, Plaintiffs,	CASE NO. A 558 243 DEPT. NO. XVI ELECTRONIC FILING CASE ORIGINAL COMPLAINT [NRS Chapter 40] CLASS ACTION JURY TRIAL DEMANDED		
FULLER JENKI	- CDIGNIA	1 L COMPLAINT		