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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bentley Price, Circuit Court Judge

Case No. 2017-CP-10-05245
Case No. 2017-CP-10-05246
Appellate Case No. 2022-001187

Gary Keisler, individually and as Class Representative, John Does (1-50) and Jane Does (1-50), Plaintiff,

v.

(See ensuing pages for continued caption)

RECORD ON APPEAL
Volume I

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John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guildford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, individually, Sue Wieland, Lindsey Parker, Robert Parker, Jack Wieland, Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC, John Does (20-50), and Jane Does (41-50), AC Construction, Inc., Scott Parker, individually, Builders FirstSource- Southeast Group, LLC, Muhler, LLC a/k/a The Muhler Company, Inc., YKK (U.S.A.), Inc., Wheelock Street Real Estate Fund II, LP, Wheelock Street Real Estate Fund V, LP, WSREF, NRT, LLC, JW Homes, LLC, JWH RPIV, LLC, RP Falcon Land, LLC, Wieland Realty, LLC, RP Falcon Realty, LLC, Residential Partners IV, LLC, Paul M. Vasquez, Neighborhood Management Associates, Inc., Billie and Antonio Arias a/k/a Antonio Arias Framing Construction, Tru-Don Contracting, Inc., Fine Builders, LLC, Jose Alfredo Sandoval, Chad Larsen d/b/a Chad Larsen Co., Ivan Jose Paiz d/b/a Jose Construction, William B. Angel, East Coast Wall Systems, Inc., Tracyinne Construction a/k/a T&C Construction, LLC, Frankcisco and Andrea Dacosta d/b/a AAA Coastline, Inc., Jack R. Clark d/b/a Jack Clark Construction, LLC, Alex Welch, Tracy McCuiston d/b/a Mastercraft Interior and Exterior, Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc., Gonzalo Guerrero, A-Marc, Inc., Emmanuel Kehagis d/b/a Creative Construction, Anthony Kirksey, Polly S. Clark d/b/a Glenn Clark Construction, Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC, Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC, William C. Mulhern d/b/a Bill's Painting, Mark A. McFarland d/b/a In the Wind, Inc., Harbor Master, Inc., Chad Hood, Kinco Ltd. d/b/a Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows, The Contractor Yard, Inc., New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc., Doug Pilcher, and Michael Cassidy, DBC Construction Services, LLC, Gerardo Rosette Sanchez a/ k/a GR Painting, LLC, Jesus Mora a/k/a

J. Mora Brick & Block Mason, LLC, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, Richard Ditullio a/k/a RDT Contracting, LLC, Valencia Medina, and J&R Construction, LLC, a/k/a JJ&R Construction, LLC, Cohen's Drywall Company, LLC, All American Roofing and Construction, LLC, and Leor Construction, LLC, Defendants.

AND

Builders FirstSource-Southeast Group, LLC, Third-Party Plaintiff,

v.

AC Construction, Corp., Third-Party Defendant.

AND

RP Falcon Properties, LLC (f.k.a JW Homes, LLC); RP Falcon Land, LLC (f.k.a. JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a Wieland Realty, LLC); and Residential Partners, LLC, Third-Party Plaintiffs,

v.

COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC, Third-Party Defendants.

AND

One Hamlin Place Townhome Association, Inc., Plaintiff,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development,

LLC, JW Land Investment, LLC, JWC Guildford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, individually, Sue Wieland, Lindsey Parker, Robert Parker, Jack Wieland, Jeorge Medina, Jeorge Medina a/ k/a JMC Construction, LLC, John Does (20-50), and Jane Does (41-50), AC Construction, Inc., Scott Parker, individually, Builders FirstSource-Southeast Group, LLC, Muhler, LLC a/k/a The Muhler Company, Inc., YKK (U.S.A.), Inc., Wheelock Street Real Estate Fund II, LP, Wheelock Street Real Estate Fund V, LP, WSREF, NRT, LLC, JW Homes, LLC, JWH RPIV, LLC, RP Falcon Land, LLC, Wieland Realty, LLC, RP Falcon Realty, LLC, Residential Partners IV, LLC, Paul M. Vasquez, Neighborhood Management Associates, Inc., Billie and Antonio Arias a/k/a Antonio Arias Framing Construction, Tru-Don Contracting, Inc., Fine Builders, LLC, Jose Alfredo Sandoval, Chad Larsen d/b/a Chad Larsen Co., Ivan Jose Paiz d/b/a Jose Construction, William B. Angel, East Coast Wall Systems, Inc., Tracyinne Construction a/k/a T&C Construction, LLC, Frankcisco and Andrea Dacosta d/b/a AAA Coastline, Inc., Jack R. Clark d/b/a Jack Clark Construction, LLC, Alex Welch, Tracy McCuiston d/b/a Mastercraft Interior and Exterior, Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc., Gonzalo Guerrero, A-Marc, Inc., Emmanuel Kehagis d/b/a Creative Construction, Anthony Kirksey, Polly S. Clark d/b/a Glenn Clark Construction, Benjamin Mora a/k/a Benjamin L. Mora d/ b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC, Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC, William C. Mulhern d/b/a Bill's Painting, Mark A. McFarland d/b/a In the Wind, Inc., Harbor Master, Inc., Chad Hood, Kinco Ltd. d/b/a Atrium Companies, Inc. d/ b/a Atrium Windows and Doors, Inc. a/k/a HR Windows, The Contractor Yard, Inc., New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc., Doug Pilcher, and Michael Cassidy, DBC Construction Services, LLC, Gerardo Rosette Sanchez a/ k/a GR Painting, LLC, Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, Richard Ditullio a/k/a RDT Contracting, LLC, Valencia Medina, and J&R Construction, LLC, a/k/a JJ&R Construction, LLC, Cohen's Drywall Company, LLC, All American Roofing and Construction, LLC, and Leor Construction, LLC, Defendants.

AND

Builders FirstSource-Southeast Group, LLC, Third-Party Plaintiff,

v.

AC Construction, Corp., Third-Party Defendant.

AND

RP Falcon Properties, LLC (f.k.a JW Homes, LLC); RP Falcon Land, LLC (f.k.a. JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a Wieland Realty, LLC); And Residential Partners, LLC, Third-Party Plaintiffs,

v.

COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC, Third-Party Defendants,

of which RP Falcon Properties, LLC (f/k/a JW Homes, LLC); RP Falcon Land, LLC (f/k/a JW Land Investment, LLC); RP Falcon Realty, LLC (f/k/a Wieland Realty, LLC); and Residential Partners, LLC are the Appellants,

and Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC, and All Exteriors Construction, LLC are the Respondents.

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ELECTRONICALLY FILED - 2022 Apr 22 3:12 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005246

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1005246

Gary Keisler et al
PLAINTIFF(S)

John Wieland Homes and Neighborhoods of the Carolinas Inc as et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

This matter came before the Court as JMC Construction, LLC's Motion for Summary Judgment or Motion to Bifurcate Trial heard on April 18, 2022.

Defendant JMC Construction, LLC's Motion for Summary Judgment is granted. The Motion to bifurcate is moot.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/22/2022 .

Chad Hood
Bills Painting
William C Mulhern
Mora Construction LLC
Benjamin Mora Construction LLC
Moras Construction
Mora Construction
Benjamin L Mora
Benjamin Mora
Glenn Clark Construction
Polly S Clark
Anthony Kirksey
Creative Construction
Evans Enterprises
Coy Cy Construction
Residental Partners LLC
Emmanuel Kehagis
A Marc Inc
Gonzalo Guerrero
Alex Welch
Jack Clark Construction LLC
Jack R Clark
Wieland Realty LLC
Rp Falcon Realty LLC
Jw Land Investment LLC
Rp Falcon Land Llc
JW Homes LLC
RP Falcon Properties LLC
AC Construction Corp
Builders Firstsource Southeast Group LLC
AAA Coastline Inc
Andrea DaCosta
Frankcisco DaCosta

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Charleston Common Pleas

Case Caption: Gary Keisler , plaintiff, et al VS John Wieland Homes and Neighborhoods of the Carolinas Inc as , defendant, et al

Case Number: 2017CP1005246

Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
One Hamlin Place Townhome Association, Inc., Plaintiff, vs. John Wieland Homes and Neighborhoods of The Carolinas, Inc. as successor by statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; et al., Defendants.	)	Civil Action No.: 2017-CP-10-5245 **ORDER GRANTING SUMMARY JUDGMENT FOR DEFENDANTS NAMED AS JORGE MEDINA, AND JEORGE MEDINA A/K/A JMC CONSTRUCTION, LLC A/K/A JMC CONSTRUCTION, INC. AND ALL EXTERIORS CONSTRUCTION, LLC TO CROSS CLAIMS AND THIRD-PARTY CLAIMS ASSERTED BY CERTAIN CO-DEFENDANTS**

-- AND --

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50), Plaintiff, vs. John Wieland Homes and Neighborhoods of The Carolinas, Inc. as successor by statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; et al., Defendants.	)	Civil Action No.: 2017-CP-10-5246

This matter came before me for argument on Monday, April 17, 2022. The motions for summary judgment were filed on March 3, 2022, by Defendants named as Jorge Medina, Jorge

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Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc. (hereafter "JMC") and Defendant All Exteriors Construction, LLC (hereinafter "All Exteriors") requesting the dismissal of cross claims and third-party claims asserted by the general contractors for the construction of the One Hamlin Place Townhomes located in Mount Pleasant, Charleston County, South Carolina. Although four separate motions for summary judgment were filed contemporaneously, one motion each by JMC and by All Exteriors in the One Hamlin matter (C/A No. 2017-CP-109-5245, the "HOA Action") and the Gary Keisler matter (C/A No. 2017-CP-109-5245, the "Class Action"), the motions and arguments were nearly identical. Therefore, for clarity and as much brevity as possible, the motions are decided with a single, joint Order.

At the conclusion of the motions hearing, the court requested counsel for JMC and All Exteriors to submit a proposed order reflecting the court's ruling from the bench. In the interim, on April 23, 2022, Form Orders in both the HOA Action and the Class Action granting the requested relief were filed. Furthermore, for the reasons articulated below, the court hereby GRANTS the motions for summary judgment and further finds the alternative request to bifurcate is MOOT. Lastly, as an additional matter raised during the hearing on Monday, the court orders that the 30(b)(6) depositions of the general contractor entities be scheduled and taken within thirty (30) days of the date of this order.

THE PARTIES

Arguing on behalf of JMC and All Exteriors was Andrew N. Cole with Collins & Lacy, PC. Arguing and appearing on behalf of Residential Partners, LLC was Thomas C. Hildebrand, Jr. with Parker Poe Adams & Bernstein, LLP. Appearing on behalf of RP Falcon Properties, LLC f/k/a JW Homes, LLC, RP Falcon Land, LLC, f/k/a JW Land Investment, LLC, RP Falcon Realty, LLC, f/k/a Wieland Realty, LLC, and Residential Partners, LLC was Blake A. McKie with Duffy

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& Young, LLC. Residential Partners and the RP Falcon entities were identified jointly in the underlying memorandums as the "RP Companies." Arguing on behalf of John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina, and Builders Support Services of the Carolinas, Inc. was Theodore L. Manos with Robertson Hollingsworth Manos & Rahn, LLC. The John Wieland Homes entities were identified collectively in the underlying memorandums as "Wieland." John C. Hayes, IV appeared for and spoke on behalf of both the HOA Action and Class Action Plaintiffs. Other counsel were present in the courtroom, but none join in or opposed the arguments.

BACKGROUND

This is a construction defect lawsuit involving eleven (11) buildings that comprise the One Hamlin Plantation Townhomes (hereinafter the "One Hamlin Townhomes") which are located in Mount Pleasant, Charleston County, South Carolina. Wieland was the developer and general contractor for the construction of Buildings 1, 2, 3, and 4 at the One Hamlin Townhomes. The RP Companies are alleged to have been the developer and general contractor for the construction of Buildings 5, 6, 7, 8, 9, 10, and 11 at the One Hamlin Townhomes. Buildings 1 through 4 were completed between August 2009 and April 2012 and Buildings 5 through 11 were completed between April 2013 and November 2014.

Invoices and other documentation produced in discovery show that JMC performed work on Buildings 1, 2, 3, 4, 6, and part of 5. Generally, JMC's scope of work was the installation of siding, trim, and the three asphalt shingle roofs on Buildings 2, 4, and 6. All Exteriors performed a similar scope of work installed siding and trim on Buildings 7, 8, 9, 10, 11, and part of 5.

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Therefore, JMC performed work under both Wieland and the RP Companies, and All Exteriors performed work under the RP Companies. No written subcontract was entered between JMC, All Exteriors, Wieland, or the RP Companies.

Plaintiffs filed their original summonses and complaints for both the HOA Action and the Class Action on October 12, 2017. Plaintiffs amended the HOA Action and the Class Action complaints on January 17, 2018, and again on January 30, 2019. The third-amended complaint in the Class Action was filed November 11, 2020.

On April 15, 2019, Wieland filed its answer to Plaintiffs' Second Amended Complaint and for the first time asserted cross claims against various subcontractors, including JMC, alleging claims for (1) indemnity; (2) negligence; (3) breach of implied and/or express warranties of merchantability, workmanlike service, and/or fitness for a particular or intended purpose; and (4) breach of contract. Wieland also asserted a cross claim for (5) strict liability/products liability, but not against JMC. Wieland's cross claims were based on its work developing and/or building Buildings 1 through 4 at the One Hamlin Townhomes. JMC generally denied the substantive allegations alleged in the pleadings by the Plaintiffs as well as the cross claims by Wieland.

The RP Companies filed amended answers to Plaintiffs' Second Amended Complaints and asserted cross claims against JMC and third-party claims against All Exteriors on February 5, 2020. Under both the cross claims and third-party claims, the RP Companies asserted claims for (1) indemnity; (2) negligence; (3) breach of warranty; and (4) breach of contract. They also asserted a claim for (5) strict liability/products liability against a window manufacturer. JMC answered these claims March 12, 2020, and All Exteriors answered March 13, 2020. The claims brought by the RP Companies mirrored the claims brought by the Wieland Defendants but applied to the RP Companies' work developing and/or building Buildings 5 through 11 at the One Hamlin

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Townhomes. On November 24, 2020, The RP Companies renewed their cross claims and third-party claims when responding to the Third-Amended Complaint in the Class Action, which was filed November 11, 2020. JMC and All Exteriors generally denied the substantive allegations alleged in the pleadings by the Plaintiffs as well as the cross claims and third-party claims by the RP Companies.

The HOA Action and the Class Action were mediated together twice. The first mediation was on September 8 and 9, 2021. The second mediation was on February 8, 2022.[1] JMC and All Exteriors agreed to a joint settlement number with the Plaintiffs at the second mediation. The general terms of the settlement were set forth in a Memorandum of Settlement that was electronically signed by counsel for Plaintiffs, JMC, and All Exteriors with the intent that the document complied with South Carolina Civil Procedure Rule 43(k). Neither Wieland nor the RP Companies agreed to dismiss or resolve their respective cross claims and third-party claims against JMC and All Exteriors; therefore, on March 3, 2022, JMC and All Exteriors filed their motions for summary judgment against these cross claims against Wieland and the RP Companies. These motions for summary judgment were argued on April 18, 2022.

STANDARD OF REVIEW

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *George v. Fabri,* 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). "[S]ummary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner." *David v. McLeod Reg'l Med Ctr.,* 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006) (emphasis added).

[1] Because of continued Covid restrictions, the second mediation was conducted virtually.

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Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." S.C. R. Civ. P. 56(c). "Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). "With respect to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility 'may be discharged by "showing"—that is, pointing out to the [trial] court—that there is an absence of evidence to support the nonmoving party's case.'" Id. (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986)).

"Once moving party carries its initial burden, opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial." Id. (internal quotation marks, citations, and italics omitted). Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings. Id. "Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." Miller v. Blumenthal Mills, Inc., 365 S.C. 204, 220, 616 S.E.2d 722, 730 (Ct. App. 2005) (citations omitted).

"In cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. Nevertheless, when the evidence is susceptible of only one reasonable

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interpretation, summary judgment may be granted." Holmes v. E. Cooper Community Hosp., Inc., 408 S.C. 138, 154, 758 S.E.2d 483, 492 (2014).

DISCUSSION

1. The cross claims and third-party claims asserted by Wieland and the RP Companies are merely alternative wordings for a claim for equitable indemnity.

Wieland acknowledges that it entered no written contract with JMC. The RP Companies acknowledge that they entered no written contracts with JMC or All Exteriors. In their respective cross claims and third-party claims, Wieland and the RP Companies allege they suffered an injury because the HOA Action and Class Action Plaintiffs sued them first.

In South Carolina, alleged claims that are merely disguised claims for equitable indemnity should be dismissed and/or restated as claims for equitable indemnity. "The character of an action is primarily determined by the allegations contained in the complaint." Stoneledge at Lake Keowee Owners' Association, Inc., et al. v. Clear View Construction, LLC, et al., 413 S.C. 615, 620, 776 S.E.2d 426, 429 (Ct.App. 2015) (Stoneledge A); Stoneledge at Lake Keowee Owners' Ass'n, Inc., et al. v. Builders FirstSource-Southeast Group., et al., 413 S.C. 630, 635, 776 S.E.2d at 437 (Ct.App. 2015), reh'g den. (Sept. 14, 2015), cert. den. (Oct. 20, 2016) (Stoneledge B). The character of the cross claim is a question of law for the court. Stoneledge A at 620-621, 776 S.E.2d at 429; Stoneledge B at 635, 776 S.E.2d at 437.

In the present action, it is clear that the cross claims and/or third-party claims alleged by Wieland and the RP Companies against JMC and All Exteriors only exist because Plaintiffs first brought claims against Wieland and the RP Companies alleging the same construction defect violations. Under Wieland's and the RP Companies' own allegations, their respective cross claims and/or third-party claims arose only when they faced potential liability for Plaintiffs' damages and incurred fees and costs defending against Plaintiffs' lawsuit. The alleged cross claims and/or third-

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party claims sounding in negligence, breach of warranties, and breach of contract are nothing more than different ways of alleging claims for equitable indemnity.

2. Summary judgment is appropriate because Wieland and the RP Companies cannot prove that they are without fault.

"Indemnity is that form of compensation in which a first party is liable to pay a second party for a loss or damage the second party incurs to a third party." Fountain v. Fred's Inc., __ S.C. __, __ S.E.2d __, 2022WL610265 at *3 (filed March 2, 2022) (citating Vermeer Carolina's Inc. v. Wood/Chuck Chipper Corp., 336 S.C. 53, 60, 518 S.E.2d 301, 305 (Ct.App. 1999)). "An equitable indemnity claim may arise when a third party makes a claim against the indemnity plaintiff for damages the third party sustained as a result of another party's tortious conduct." Stoneledge A at 624-625, 776 S.E.2d at 431 (citation omitted).

To recover under their equitable indemnity claims, Wieland and the RP Companies must each prove: (1) that JMC and/or All Exteriors were at fault in causing the alleged construction defect damages suffered by the Plaintiffs; (2) Wieland and the RP Companies have no fault for these damages; and (3) Wieland and the RP Companies incurred expenses that were necessary to protect their interests in defending against the Plaintiffs' claims for these damages. See Fountain at *3 (citing Inglese v. Beal, 403 S.C. 290, 299, 742 S.E.2d 687, 692 (Ct.App. 2013)); Stoneledge A 413 S.C. at 625, 776 S.E.2d at 432 (citations omitted).

The second prong of the equitable indemnity claim requires Wieland and the RP Companies to prove that they are without fault. "A party is not entitled to equitable indemnification if any negligence of his own has joined in causing the injury." Fountain at *3 (citating Vermeer 336 at 60, 518 S.E.2d at 305). "Equitable indemnity cases involve a fact pattern in which the first party is at fault, but the second party is not. If the second party is also at fault, he comes to court without equity and has no right to indemnity." Fountain at *4 (citating Town of

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JMC and All Exteriors presented testimony from the experts retained by Plaintiffs as well as Wieland and the RP Companies stating that a general contractor bears some responsibility and liability for the construction of an underlying project. Derek Hodgin of Construction Science and Engineering (CSE), the construction defect expert hired by Wieland and the RP Companies, has testified that the general contractor is the "captain of the ship" and is in charge of coordinating and overseeing the work being performed by its subcontractors. George Cook, the cost estimator hired by the RP Companies, testified in the present action that a general contractor has some responsibility to verify that the construction and/or repairs performed are compliant with buildings codes and industry standards. An excerpt from Mr. Cook's deposition is illustrative:

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Wieland and the RP Companies have offered no testimony to refute this opinion and/or concession stated in the very case now before this court. The current issues before the court are motions for summary judgment. JMC and All Exteriors met the initial burden under Rule 56,

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SCRCP to demonstrate that, as a matter of law, Wieland and the RP Companies have some liability in this case. See Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). Indeed, the experts hired by Wieland and the RP Companies concede that some repairs are required at the One Hamlin Townhomes. Since JMC and All Exteriors met their initial burden, it is incumbent on Wieland and the RP Companies to "do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a *genuine issue for trial*." Id. (quoting Matushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-587 (Sup.Ct. 1986) (italicized emphasis in original).

Wieland and the RP Companies argue in their responsive memorandums, and JMC and All Exteriors concede, that they did not self-perform work at the One Hamlin Townhomes and that JMC worked on Buildings 1, 2, 3, 4, 6, and part of 5 and All Exteriors worked on Buildings 7, 8, 9, 10, 11, and part of 5. This evidence merely confirms that JMC and All Exteriors worked on the project. No evidence was presented that exonerates Wieland or the RP Companies from their respective responsibilities and liability for their supervision of the work constructing the One Hamlin Townhomes. To the contrary, expert witnesses retained and/or relied on by Weiland and the RP Companies in this case have conceded that Wieland and the RP Companies, in their capacity as the general contractors on the One Hamlin Townhome project, have some fault with the alleged construction defects. Based on their own witnesses, Wieland and the RP Companies come to this court with some fault. Having not presented information sufficient to prove they are *without* fault, Wieland and the RP Companies come to this court without equity. As a matter of law, neither Wieland nor the RP Companies can recover on their cross claims and third-party claims for equitable indemnification against JMC and All Exteriors.

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3. JMC's and All Exteriors' Alternative Request to Bifurcate the cross claims and third-party claims at trial.

The court has discretion as to whether to bifurcate a trial. Wright v. Hiester Construction Co., Inc., 389 S.C. 504, 516, 698 S.E.2d 822, 828 (Ct.App. 2010) (citation omitted). However, because this court has granted summary judgment in favor of JMC and All Exteriors on the cross claims and third-party claims asserted by Wieland and RP Companies, these claims are resolved. This court finds the motions to bifurcate are moot.

4. Additional discovery issue raised to the Court during the hearing.

During the arguments on the motions for summary judgment, the issue of Plaintiffs having not yet taken the depositions of the representatives for Wieland or the RP Companies was raised. This court finds that discovery was sufficiently completed to rule on the motions for summary judgment that were filed by JMC and All Exteriors. However, regarding the continuing claims, this court finds that additional discovery is warranted. This court finds that the depositions of the representatives from Wieland and the RP Companies should be taken. Therefore, pursuant to this court's inherent authority pursuant to Rules 26 and 30 of the South Carolina Rules of Civil Procedure, this court orders the scheduling and taking of the depositions of Wieland and the RP Companies pursuant to Rule 30(b)(6), SCRCP, within thirty (30) days of the date of this order.

IT IS THEREFORE ORDERED that:

1. Summary Judgment is GRANTED to JMC against the cross claims asserted by Wieland and the RP Companies in the HOA Action (C/A No. 2017-CP-10-05245);

2. Summary Judgment is GRANTED to JMC against the cross claims asserted by Wieland and the RP Companies in the Class Action (C/A No. 2017-CP-10-05246);

3. Summary Judgment is GRANTED to All Exteriors against the cross claims asserted by the RP Companies in the HOA Action (C/A No. 2017-CP-10-05245);

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4. Summary Judgment is GRANTED to All Exteriors against the cross claims asserted by the RP Companies in the Class Action (C/A No. 2017-CP-10-05246);

5. The alternative requests by JMC and All Exteriors to bifurcate the cross claims and third-party claims asserted against them by Wieland and the RP Companies are MOOT because of the rulings on the summary judgment motions; and

6. The parties still involved in the litigation shall schedule and take the depositions of the representatives for Wieland and the RP Companies pursuant to Rule 30(b)(6), SCRCP, within thirty (30) days of the date of this order.

AND IT IS SO ORDERED

_____
The Honorable Bentley Price
Judge, Ninth Judicial Circuit

April ____, 2022
Charleston, South Carolina

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Charleston Common Pleas

Case Caption: Gary Keisler , plaintiff, et al VS John Wieland Homes and Neighborhoods of the Carolinas Inc as , defendant, et al

Case Number: 2017CP1005246

Type: Order/Summary Judgment

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
One Hamlin Place Townhome Association, Inc., Plaintiff, vs. John Wieland Homes and Neighborhoods of The Carolinas, Inc. as successor by statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; et al., Defendants.	)	Civil Action No.: 2017-CP-10-5245 **ORDER GRANTING SUMMARY JUDGMENT FOR DEFENDANTS NAMED AS JORGE MEDINA, AND JEORGE MEDINA A/K/A JMC CONSTRUCTION, LLC A/K/A JMC CONSTRUCTION, INC. AND ALL EXTERIORS CONSTRUCTION, LLC TO CROSS CLAIMS AND THIRD-PARTY CLAIMS ASSERTED BY CERTAIN CO-DEFENDANTS**

-- AND --

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50), Plaintiff, vs. John Wieland Homes and Neighborhoods of The Carolinas, Inc. as successor by statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; et al., Defendants.	)	Civil Action No.: 2017-CP-10-5246

This matter came before me for argument on Monday, April 17, 2022. The motions for summary judgment were filed on March 3, 2022, by Defendants named as Jorge Medina, Jorge

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Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc. (hereafter "JMC") and Defendant All Exteriors Construction, LLC (hereinafter "All Exteriors") requesting the dismissal of cross claims and third-party claims asserted by the general contractors for the construction of the One Hamlin Place Townhomes located in Mount Pleasant, Charleston County, South Carolina. Although four separate motions for summary judgment were filed contemporaneously, one motion each by JMC and by All Exteriors in the One Hamlin matter (C/A No. 2017-CP-109-5245, the "HOA Action") and the Gary Keisler matter (C/A No. 2017-CP-109-5245, the "Class Action"), the motions and arguments were nearly identical. Therefore, for clarity and as much brevity as possible, the motions are decided with a single, joint Order.

At the conclusion of the motions hearing, the court requested counsel for JMC and All Exteriors to submit a proposed order reflecting the court's ruling from the bench. In the interim, on April 23, 2022, Form Orders in both the HOA Action and the Class Action granting the requested relief were filed. Furthermore, for the reasons articulated below, the court hereby GRANTS the motions for summary judgment and further finds the alternative request to bifurcate is MOOT. Lastly, as an additional matter raised during the hearing on Monday, the court orders that the 30(b)(6) depositions of the general contractor entities be scheduled and taken within thirty (30) days of the date of this order.

THE PARTIES

Arguing on behalf of JMC and All Exteriors was Andrew N. Cole with Collins & Lacy, PC. Arguing and appearing on behalf of Residential Partners, LLC was Thomas C. Hildebrand, Jr. with Parker Poe Adams & Bernstein, LLP. Appearing on behalf of RP Falcon Properties, LLC f/k/a JW Homes, LLC, RP Falcon Land, LLC, f/k/a JW Land Investment, LLC, RP Falcon Realty, LLC, f/k/a Wieland Realty, LLC, and Residential Partners, LLC was Blake A. McKie with Duffy

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& Young, LLC. Residential Partners and the RP Falcon entities were identified jointly in the underlying memorandums as the "RP Companies." Arguing on behalf of John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina, and Builders Support Services of the Carolinas, Inc. was Theodore L. Manos with Robertson Hollingsworth Manos & Rahn, LLC. The John Wieland Homes entities were identified collectively in the underlying memorandums as "Wieland." John C. Hayes, IV appeared for and spoke on behalf of both the HOA Action and Class Action Plaintiffs. Other counsel were present in the courtroom, but none join in or opposed the arguments.

BACKGROUND

This is a construction defect lawsuit involving eleven (11) buildings that comprise the One Hamlin Plantation Townhomes (hereinafter the "One Hamlin Townhomes") which are located in Mount Pleasant, Charleston County, South Carolina. Wieland was the developer and general contractor for the construction of Buildings 1, 2, 3, and 4 at the One Hamlin Townhomes. The RP Companies are alleged to have been the developer and general contractor for the construction of Buildings 5, 6, 7, 8, 9, 10, and 11 at the One Hamlin Townhomes. Buildings 1 through 4 were completed between August 2009 and April 2012 and Buildings 5 through 11 were completed between April 2013 and November 2014.

Invoices and other documentation produced in discovery show that JMC performed work on Buildings 1, 2, 3, 4, 6, and part of 5. Generally, JMC's scope of work was the installation of siding, trim, and the three asphalt shingle roofs on Buildings 2, 4, and 6. All Exteriors performed a similar scope of work installed siding and trim on Buildings 7, 8, 9, 10, 11, and part of 5.

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Therefore, JMC performed work under both Wieland and the RP Companies, and All Exteriors performed work under the RP Companies. No written subcontract was entered between JMC, All Exteriors, Wieland, or the RP Companies.

Plaintiffs filed their original summonses and complaints for both the HOA Action and the Class Action on October 12, 2017. Plaintiffs amended the HOA Action and the Class Action complaints on January 17, 2018, and again on January 30, 2019. The third-amended complaint in the Class Action was filed November 11, 2020.

On April 15, 2019, Wieland filed its answer to Plaintiffs' Second Amended Complaint and for the first time asserted cross claims against various subcontractors, including JMC, alleging claims for (1) indemnity; (2) negligence; (3) breach of implied and/or express warranties of merchantability, workmanlike service, and/or fitness for a particular or intended purpose; and (4) breach of contract. Wieland also asserted a cross claim for (5) strict liability/products liability, but not against JMC. Wieland's cross claims were based on its work developing and/or building Buildings 1 through 4 at the One Hamlin Townhomes. JMC generally denied the substantive allegations alleged in the pleadings by the Plaintiffs as well as the cross claims by Wieland.

The RP Companies filed amended answers to Plaintiffs' Second Amended Complaints and asserted cross claims against JMC and third-party claims against All Exteriors on February 5, 2020. Under both the cross claims and third-party claims, the RP Companies asserted claims for (1) indemnity; (2) negligence; (3) breach of warranty; and (4) breach of contract. They also asserted a claim for (5) strict liability/products liability against a window manufacturer. JMC answered these claims March 12, 2020, and All Exteriors answered March 13, 2020. The claims brought by the RP Companies mirrored the claims brought by the Wieland Defendants but applied to the RP Companies' work developing and/or building Buildings 5 through 11 at the One Hamlin

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Townhomes. On November 24, 2020, The RP Companies renewed their cross claims and third-party claims when responding to the Third-Amended Complaint in the Class Action, which was filed November 11, 2020. JMC and All Exteriors generally denied the substantive allegations alleged in the pleadings by the Plaintiffs as well as the cross claims and third-party claims by the RP Companies.

The HOA Action and the Class Action were mediated together twice. The first mediation was on September 8 and 9, 2021. The second mediation was on February 8, 2022.[1] JMC and All Exteriors agreed to a joint settlement number with the Plaintiffs at the second mediation. The general terms of the settlement were set forth in a Memorandum of Settlement that was electronically signed by counsel for Plaintiffs, JMC, and All Exteriors with the intent that the document complied with South Carolina Civil Procedure Rule 43(k). Neither Wieland nor the RP Companies agreed to dismiss or resolve their respective cross claims and third-party claims against JMC and All Exteriors; therefore, on March 3, 2022, JMC and All Exteriors filed their motions for summary judgment against these cross claims against Wieland and the RP Companies. These motions for summary judgment were argued on April 18, 2022.

STANDARD OF REVIEW

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *George v. Fabri,* 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). "[S]ummary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner." *David v. McLeod Reg'l Med Ctr.,* 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006) (emphasis added).

[1] Because of continued Covid restrictions, the second mediation was conducted virtually.

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Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." S.C. R. Civ. P. 56(c). "Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). "With respect to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility 'may be discharged by "showing"—that is, pointing out to the [trial] court—that there is an absence of evidence to support the nonmoving party's case.'" Id. (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986)).

"Once moving party carries its initial burden, opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial." Id. (internal quotation marks, citations, and italics omitted). Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings. Id. "Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." Miller v. Blumenthal Mills, Inc., 365 S.C. 204, 220, 616 S.E.2d 722, 730 (Ct. App. 2005) (citations omitted).

"In cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. Nevertheless, when the evidence is susceptible of only one reasonable

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interpretation, summary judgment may be granted." Holmes v. E. Cooper Community Hosp., Inc., 408 S.C. 138, 154, 758 S.E.2d 483, 492 (2014).

DISCUSSION

1. The cross claims and third-party claims asserted by Wieland and the RP Companies are merely alternative wordings for a claim for equitable indemnity.

Wieland acknowledges that it entered no written contract with JMC. The RP Companies acknowledge that they entered no written contracts with JMC or All Exteriors. In their respective cross claims and third-party claims, Wieland and the RP Companies allege they suffered an injury because the HOA Action and Class Action Plaintiffs sued them first.

In South Carolina, alleged claims that are merely disguised claims for equitable indemnity should be dismissed and/or restated as claims for equitable indemnity. "The character of an action is primarily determined by the allegations contained in the complaint." Stoneledge at Lake Keowee Owners' Association, Inc., et al. v. Clear View Construction, LLC, et al., 413 S.C. 615, 620, 776 S.E.2d 426, 429 (Ct.App. 2015) (Stoneledge A); Stoneledge at Lake Keowee Owners' Ass'n, Inc., et al. v. Builders FirstSource-Southeast Group., et al., 413 S.C. 630, 635, 776 S.E.2d at 437 (Ct.App. 2015), reh'g den. (Sept. 14, 2015), cert. den. (Oct. 20, 2016) (Stoneledge B). The character of the cross claim is a question of law for the court. Stoneledge A at 620-621, 776 S.E.2d at 429; Stoneledge B at 635, 776 S.E.2d at 437.

In the present action, it is clear that the cross claims and/or third-party claims alleged by Wieland and the RP Companies against JMC and All Exteriors only exist because Plaintiffs first brought claims against Wieland and the RP Companies alleging the same construction defect violations. Under Wieland's and the RP Companies' own allegations, their respective cross claims and/or third-party claims arose only when they faced potential liability for Plaintiffs' damages and incurred fees and costs defending against Plaintiffs' lawsuit. The alleged cross claims and/or third-

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To recover under their equitable indemnity claims, Wieland and the RP Companies must each prove: (1) that JMC and/or All Exteriors were at fault in causing the alleged construction defect damages suffered by the Plaintiffs; (2) Wieland and the RP Companies have no fault for these damages; and (3) Wieland and the RP Companies incurred expenses that were necessary to protect their interests in defending against the Plaintiffs' claims for these damages. See Fountain at *3 (citing Inglese v. Beal, 403 S.C. 290, 299, 742 S.E.2d 687, 692 (Ct.App. 2013)); Stoneledge A 413 S.C. at 625, 776 S.E.2d at 432 (citations omitted).

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3. JMC's and All Exteriors' Alternative Request to Bifurcate the cross claims and third-party claims at trial.

The court has discretion as to whether to bifurcate a trial. Wright v. Hiester Construction Co., Inc., 389 S.C. 504, 516, 698 S.E.2d 822, 828 (Ct.App. 2010) (citation omitted). However, because this court has granted summary judgment in favor of JMC and All Exteriors on the cross claims and third-party claims asserted by Wieland and RP Companies, these claims are resolved. This court finds the motions to bifurcate are moot.

4. Additional discovery issue raised to the Court during the hearing.

During the arguments on the motions for summary judgment, the issue of Plaintiffs having not yet taken the depositions of the representatives for Wieland or the RP Companies was raised. This court finds that discovery was sufficiently completed to rule on the motions for summary judgment that were filed by JMC and All Exteriors. However, regarding the continuing claims, this court finds that additional discovery is warranted. This court finds that the depositions of the representatives from Wieland and the RP Companies should be taken. Therefore, pursuant to this court's inherent authority pursuant to Rules 26 and 30 of the South Carolina Rules of Civil Procedure, this court orders the scheduling and taking of the depositions of Wieland and the RP Companies pursuant to Rule 30(b)(6), SCRCP, within thirty (30) days of the date of this order.

IT IS THEREFORE ORDERED that:

1. Summary Judgment is GRANTED to JMC against the cross claims asserted by Wieland and the RP Companies in the HOA Action (C/A No. 2017-CP-10-05245);

2. Summary Judgment is GRANTED to JMC against the cross claims asserted by Wieland and the RP Companies in the Class Action (C/A No. 2017-CP-10-05246);

3. Summary Judgment is GRANTED to All Exteriors against the cross claims asserted by the RP Companies in the HOA Action (C/A No. 2017-CP-10-05245);

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4. Summary Judgment is GRANTED to All Exteriors against the cross claims asserted by the RP Companies in the Class Action (C/A No. 2017-CP-10-05246);

5. The alternative requests by JMC and All Exteriors to bifurcate the cross claims and third-party claims asserted against them by Wieland and the RP Companies are MOOT because of the rulings on the summary judgment motions; and

6. The parties still involved in the litigation shall schedule and take the depositions of the representatives for Wieland and the RP Companies pursuant to Rule 30(b)(6), SCRCP, within thirty (30) days of the date of this order.

AND IT IS SO ORDERED

_____
The Honorable Bentley Price
Judge, Ninth Judicial Circuit

April ____, 2022
Charleston, South Carolina

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Charleston Common Pleas

Case Caption: One Hamlin Place Townhome Association Inc , plaintiff, et al VS John Wieland Homes and Neighborhoods of Carolinas Inc as Suc , defendant, et al

Case Number: 2017CP1005245

Type: Order/Summary Judgment

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Gary Keisler, individually and as Class Representative, John Does (1-50) and Jane Does (1-50) Plaintiffs, vs. John Wieldand Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; et al., Defendants. RP Falcon Properties, LLC (f/k/a JW Homes, LLC); RP Falcon Land, LLC (f/k/a JW Land Investment, LLC); RP Falcon Realty, LLC (f/k/a Wieland Realty, LLC); Residential Partners, LLC, Third- Party Plaintiffs, Vs. COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC, Third-Party Defendants.	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2019-CP-15-0949 **ORDER DENYING RP COMPANIES' MOTION TO RECONSIDER**

The Third-Party Plaintiffs "RP Companies," filed a motion asking this Court to reconsider its May 10, 2022 Order.

STANDARD OF REVIEW

Motions for reconsideration will not be granted absent "highly unusual circumstances." U.S. ex rel. Becker v. Washington Savanah River Co., 305 F.3d 284, 290 (4th Cir. 2002) (stating

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that simple disagreements with the court's ruling will not support Rule 59(e) relief).[1] Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinston v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Importantly, a motion for reconsideration is not a vehicle to re-litigate previously raised issues or "to raise argument or present evidence that could have been presented prior to the entry of judgment." Dash v. Mayweather, C/A No. 3:10-1036-JFA, 2010 U.S. Dist. LEXIS 95277, *2 (D.S.C. Sept. 13, 2010) (quoting Exxon Shipping Co. v. Baker, 554 U.S. 471, n.5 (2008)). In other words, "[a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not." Stevens & Wilkinson of S.C., Inc. v. City of Columbia, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995). Nor does "[a] party's mere disagreement with the court's ruling . . . warrant a Rule 59(e) motion." In re Pella Corp. Architect & Designer Series Windows Mktg., Sales Practices & Prods. Liab. Litig., 269 F.Supp. 3d 685, 691 (D.S.C. 2017); *see also* Lyons v. Fid. Nat'l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

After consideration of the issues raised in Plaintiff's motion, the Court hereby DENIES Plaintiff RP Companies' Motion for Reconsideration.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW

[1] Rule 59 is substantially the same as the Federal Rule. *See* Elam v. S.C. Dep't of Transp., 361 S.C. 9, 21, 602 S.E. 2d 772, 779 (2004) ("Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.").

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	CASE NO: 2017-CP-10-5246
Individually and as Class Representative, Gary Keisler, John Does (1-50) and Jane Does (1-50),)	**VERIFIED COMPLAINT (Jury Trial Demanded)**
Plaintiffs,)	
vs.)	
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, individually, Sue Wieland, Lindsey Parker, Robert Parker, Jack Wieland, Jeorge Medina, Jeorge Medina a/k/a JMC Construction, Inc., John Does (1-50), and Jane Does (1-50),)	
Defendants.)	

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JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The Plaintiff, Gary Keisler, as Class Representative and the above-named Plaintiffs (hereinafter collectively referred to as "Plaintiffs"), individually and as a class of similarly

situated owners of townhome units in a residential townhome community named One Hamlin Place Townhomes complaining of the above-mentioned Defendants, allege and state as follows:

1. Plaintiff, Gary Keisler, is a citizen and resident of Charleston County, South Carolina, who at all times relevant hereto lives in a residential community known as One Hamlin Place Townhomes, located in Mt. Pleasant, South Carolina, Plaintiff Gary Keisler further alleges and states that he is bringing this action pursuant to Rule 23, SCRCP, as representing a class composed of each and every unit owner in the One Hamlin Place Townhome Association, Inc., and that:

a) The class is so numerous that joinder of all members is impracticable;

b) There are questions of law and fact common to the class;

c) The claims of the Plaintiff, Gary Keisler, are typical of the claims of the class;

d) The Plaintiff, Gary Keisler, will fairly and adequately protect the interest of the class; and

e) The amount in controversy exceeds One Hundred Dollars ($100.00) for each member of the class.

2. The individual Plaintiffs are citizens and residents of Charleston County, South Carolina, who at all times relevant hereto live in a residential community known as One Hamlin Place Townhomes, located in Mt. Pleasant, South Carolina.

3. One Hamlin Place Townhomes (hereinafter collectively referred to "the property" or "One Hamlin") is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina and, upon information and belief, was owned, developed, marketed and constructed by the Defendants.

4. Defendants John Wieland Homes and Neighborhoods of the Carolinas, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, and Annisquam Development, LLC are, upon information and belief, corporations organized and existing under the laws of the State of South Carolina and are authorized to conduct business in this state.

5. Defendants Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, Sue Wieland, Lindsey Parker, Jack Wieland, Robert Parker are, upon information and belief, foreign corporations that transact business in the State of South Carolina.

6. Upon assuming the roles as stated above, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

7. Furthermore, in assuming the roles stated above, the Defendants undertook to make certain that this Community was developed and constituted in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

8. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

9. This Court has jurisdiction over the parties and subject matter hereto.

10. The construction of One Hamlin was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin according to the normal standards of good and workmanlike practice in the construction field.

11. Construction defects in the One Hamlin have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water damage along porches;

(d) Water intrusion damage resulting from defects;

(e) Improper flashing installation; and

(f) Improper paving and drainage

12. Defendant John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. (hereinafter referred to as "Wieland SC") is a corporation organized and existing under the laws of the State of South Carolina and, at all times relevant hereto, was authorized to and did conduct business in the State of South Carolina, County of Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, selling, and constructing the townhomes in a manner for sale to the public.

13. Defendant John Wieland Homes of Charleston, Inc., upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina and is authorized to conduct business in this state, and have a principal place of business in Charleston County Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

14. Defendant John Wieland Homes, Inc., upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina and is authorized to conduct business in this state, and have a principal place of business in Charleston County Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

15. Defendant Builder Support Services of the Carolinas, Inc., upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina and is authorized to conduct business in this state.

16. Defendant Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc. is a joint venture formed in November 2012 with the Wieland Defendants where John Wieland Homes and Neighborhoods, Inc. sold its assets and intellectual property to Wheelock Street Capital.

17. Defendant Wheelock Street Real Estate Land Fund, LP is a limited partnership which transacts business in the State of South Carolina.

18. Defendant RP Falcon Properties, LLC, formerly JW Homes, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware which transacts business in South Carolina

19. Defendant Residential Partners, LLC is a limited liability company which transacts business in the State of South Carolina.

20. Defendant Middlesex Holdings, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transacts business in South Carolina.

21. Defendant WS JWH, LLC is a single-purpose entity that transacts business in South Carolina.

22. Defendant JWC Phoenix, LLC is a foreign corporation organized and existing under the laws of the State of Delaware which transacts business in South Carolina.

23. Defendant Bridgemill Land, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transacts business in South Carolina.

24. Defendant Annisquam Development, LLC is a limited liability company organized and existing in South Carolina.

25. Defendant JW Land Investment, LLC is a foreign corporation which transacts business in South Carolina.

26. Defendant JWC Guilford, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transactions business in South Carolina.

27. Defendant OOTB, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transactions business in South Carolina.

28. Defendant Wieland Realty Associates, Inc. is a foreign corporation organized and existing under the laws of the State of Georgia which transactions business in South Carolina.

29. Defendant John Wieland is an individual with his primary place of domicile in the State of Georgia.

30. Defendant Sue Wieland is the wife of Defendant John Wieland. Upon information and belief, Sue Wieland's place of domicile is in the State of Georgia.

31. Defendants Lindsey Parker and Jack Wieland are the daughter and son of John and Sue Wieland, and Defendant Robert Parker is the son-in-law of John and Sue Wieland. Upon information and belief, Jack Wieland's place of domicile is in the State of Georgia; Robert and Lindsey Parker's place of domicile is in Massachusetts.

32. Defendant Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., is upon information and belief, is a corporation organized pursuant to the laws of the State of South Carolina.

33. Upon information and belief, John Does 1-50 and Jane Does 1-50 are individuals or entities organized pursuant to the laws of the State of South Carolina or other states. At all times relevant herein, John Does 1-50 and Jane Does 1-50 were engaged in the business of selling, constructing homes, renovating, supplying products materials and/or services to that end in Charleston, South Carolina.

34. Upon information and belief, the above-identified Wieland Defendants were, in various capacities, individually and collectively engaged in the planning and developing of the Project, and contracted with various entities for the design and construction of the Project.

35. Upon information and belief, one or more of the Wieland Defendants were merged into one or more of the John Wieland Homes and Neighborhoods of South Carolina, Inc. and John Wieland Homes and Neighborhoods, Inc. with the intent to carry on the business of the Wieland Defendants in connection with the Project.

36. Wheelock Street Capital, LLC (hereinafter referred to as Wheelock) d/b/a John Wieland Homes and Neighborhoods, Inc., is a joint venture with the Wieland Defendants formed in November 2012.

37. Upon information and belief, the ownership of the Project was maintained uninterrupted by the Wieland Defendants during and following the aforementioned merger activities, resulting in ownership and/or control of the Project by the resulting merged entity (the resulting merged entity, including all of the affiliated, subsidiary, or other merged component entities, shall hereinafter be referred to collectively as the "Developer Defendants" and/or "Wieland").

38. The Developer Defendants are all Variable Interest Entities of (as defined by the Financial Accounting Standards Board, among other institutions and authorities) subsidiaries of, parents of, partners of, associates of, agents of, affiliated with, joint venturers, servants, instrumentalities and/or alter ego entities of each other and are responsible to the Plaintiffs herein for the condition of the Project and the damages set forth herein below.

39. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities, during the development of the Project and immediately after sale of the townhomes to members of the public, sought and established a special relationship with the purchasers of the townhomes, and the Developer Defendants, at various times during and after the construction of the townhomes, breached their fiduciary duties to the purchasers in that the Developer Defendants owed dual and conflicting loyalties to themselves, to the Contractor Defendants as set forth below, to the

purchasers of the townhomes, to the Association established in the Master Deed for the construction of the Project, and to the Plaintiffs.

40. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities had irreconcilable conflicts of interest by virtue of the dual and conflicting loyalties they owed to themselves and to the purchasers and/or tenants of the Project along with the Association established in the Master Deed for the townhomes and the Plaintiffs, all of whose interests were diverse and adverse, one to the other and, as such, the Developer Defendants did not act in good faith or in a manner they could reasonably believe to be in or not opposed to the best interests of the purchasers and/or tenants of the Project along with the Association established in the Master Deed for the townhomes and the Plaintiffs.

41. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities, all participated in self-dealing by promoting their own interests through sacrificing the interests of the purchasers of the Project.

42. In connection with the Project, the Developer Defendants all became and/or acted as subsidiaries, parents, partners, associates, agents, affiliate, co-joint venturers, servants, instrumentalities and/or alter ego entities of each other and are responsible to the Plaintiffs herein for the condition of the Project and the damages set forth herein.

43. The Developer Defendants conducted business in connection with the Project by and through the use and control of subservient entities, and all of these entities in fact manifested no separate interest of their own, and demonstrated an amalgamation of corporate

interests, entities, and activities so as to blur the legal distinction between any members of that group of corporations, shareholders, officers, agents, partners, employees, and assets.

44. All Defendants were instrumental in carrying out duties and actions relating to the construction of the Project, and each of these defendants had independent duties under South Carolina law to perform their duties in a good and workmanlike manner and in accordance with applicable building codes and accepted building practices.

JURISDICTION

45. Personal jurisdiction is vested and exists in the Court of Common Pleas, County of Charleston, State of South Carolina, and venue is proper in the County of Charleston, State of South Carolina, by virtue of, among other things, the fact that the property which is the subject matter of the Complaint is located in Mt. Pleasant, South Carolina, and the great majority of the activities relating to the Project and the claims herein occurred in this jurisdiction.

BACKGROUND

46. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

47. Plaintiffs are informed and believe that the Developer Defendants engaged contractors to construct the Project including 105 properties, and related facilities and amenities, collectively known as One Hamlin Place Townhomes, which were thereafter substantially completed, and contained various buildings. The Developer Defendants, by and through various instrumentalities and alter-egos and other Defendants were the original developers of the Project and/or are liable for the actions of the original Developer of the project.

48. The Developer Defendants created and controlled numerous and various entities including, but not limited to, the John Wieland Homes and Neighborhoods of South Carolina, Inc., Builder Support Services of the Carolinas, and Wieland Defendants set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and leasing of the townhomes that were known as One Hamlin Place Townhomes. The Developer Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of the Developer Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between the Developer Defendants and the sham entities, shareholders, officers, agents, partners, employees, assets, and each of them.

49. By way of example, the Wieland Defendants included entities which were created to perform single purpose functions in order to effectuate the sole will of the Developer Defendants in purchasing, developing, leasing, and/or selling the homes. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, the Developer Defendants and the Individual Developer Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

50. The sham entities established by the Developer Defendants were and are characterized by one or more of the following: (I) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) Insolvency; (5) lack(ed) proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of the Developer Defendants, the Developer Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or the Developer Defendants directly contracted for the sham entities in the name of the Developer Defendants.

51. The Developer Defendants directed and oversaw those listed as Defendants herein and contractors including the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

52. The Developer Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

53. There would exist a broad element of injustice and fundamental unfairness of the acts of the Developer Defendants, and each of them individually, were not regarded as the acts of one another.

54. The Defendants began the process of constructing the townhomes by engaging and directing the actions of the various contractors and/or subcontractors named as Defendants herein, and participated in the negligent, deficient, and shoddy workmanship which ignored and/or covered up design and construction defects then in existence and, thereafter, placed the units into the stream of commerce for sale, which they did sell to the general public and, in particular, to the current owners who are members of the Association.

55. The Developer Defendants, by and through their instrumentalities and alter-ego entities, controlled and operated the Association and its Board of Directors prior to turning over control of the One Hamlin Association. During this period, the Developer Defendants attempted to carry out construction prior to, during and after the time they offered and sold said townhome units. This work was attempted to be performed by contractors engaged by the Developer Defendants for the purpose of expediting the sales process and was calculated for the purpose of, or through careless, reckless, negligent and grossly negligent conduct by the Developer Defendants, resulting in the concealing, fabricating, patching, hiding, and/or cloaking of the deficiencies and damage known, both actually and constructively, to the Developer Defendants and/or their affiliates, subservient entities, agents, and assigns.

56. At the time the units were offered for sale and placed into the stream of commerce by the Developer Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a

direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of the Developer Defendants.

57. The Developer Defendants and the Contractor Defendants, and each and every other above-captioned Defendant knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

58. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

59. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

60. The Plaintiffs suffered damages when the Developer Defendants put these units into the stream of commerce and continue to be damaged through the date of this filing.

61. The Developer Defendants failed to make a sufficient inquiry into the conditions of the Project in order to establish adequate financial reserves for maintenance and repair of the Project, and instead provided inaccurate and misleading information to third-parties in the research and establishment of the reserve figures, and thereby provided inaccurate and misleading reserve requirements and related information to the general public, prospective purchasers, and to the Plaintiffs, both before and after tendering control of the Association and

the common elements to the homeowners, all resulting in damages to the Plaintiffs and in violation of South Carolina law, the Master Deed, and the By-laws.

62. The Developer Defendants controlled and managed the Association and its Board of Directors through the use of its subservient entities prior to the tender of the control over the Association to the unit owners; and the Developer Defendants negligently failed to provide sufficient and reasonable information and resources for the proper management and maintenance of the Project; and in fact negligently provided insufficient, inaccurate, and misleading information and prevented the use of financial and other resources required for the proper management and maintenance of the Project, all of which resulted in continued and exacerbated damages to the Project and suffered by the Plaintiffs.

63. The Developer Defendants were engaged in a joint venture, partnership, or other legal or de facto relationship with each other.

64. The Developer Defendants caused, directed, participated in, or acted in willful, reckless, heedless, negligent and grossly negligent disregard of their collective and respective acts and omissions in the planning, development, design, construction, management and sale of the units in the Project, all as more fully described herein.

65. The Developer Defendants represented to the public over the internet and through various publications and other media that they, by and through their various affiliates, entities, venturers, and agents referenced herein, were qualified, experienced, and would in fact be directing, managing, and otherwise facilitating the construction and selling of the units, and these representations were relied upon by the Plaintiffs.

66. Prior to and until transferring control of the One Hamlin Association to the unit owners and a newly elected Board of Directors comprised of unit owners, the Developer Defendants, through their subservient and affiliated entities, employees, and agents, had a duty to serve as Board members and to conduct the business of the One Hamlin Association, had authority and control over, and in fact controlled and directed the One Hamlin Association Board of Directors and dictated all of the Board's activities.

67. In conjunction therewith, the Developer Defendants in their capacity as Board members and otherwise, in a negligent manner, carelessly, willfully, wantonly, and with reckless disregard for the rights of the Plaintiffs, participated in, acquiesced in and caused the wrongful acts and omissions described herein.

68. These collective and respective wrongful acts and omissions of the Developer Defendants and such other Defendants as set forth in the causes of action below, represent unfair trade practices and have resulted in substantial deterioration and/or failure of structures and building systems, building deficiencies, actual, incidental, special and consequential damages and loss of use. Remedying the above wrongful acts will result in actual, incidental, consequential, and special damages including loss of use to the Plaintiffs and its members, and entitle Plaintiffs and its members to punitive damages and attorney's fees. Further, these wrongful acts and omissions have directly and proximately caused substantial diminution in value, both pre- and post-repair.

69. The acts and omissions of the Defendants were contrary to the duties they owed, individually and collectively, to the Plaintiffs and actually caused damages to the Plaintiffs including, but not limited to, damages which did not result from the acts and

omissions of other defendants and including, but not limited to, damages other than damages which resulted in physical injury or damage to tangible real and personal property in connection with this Project.

AS A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS
(Negligence, Professional Negligence, and Gross Negligence)

70. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

71. Defendants, and each of them, owed a duty to Plaintiffs to act in a manner compliant with the reasonable standard of care, good faith, and fair dealing recognized under South Carolina law, and Defendants violated this duty to the Plaintiffs and were negligent, professionally negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars:

a) in failing to properly design, construct, develop and repair the townhomes;

b) in failing to comply with the applicable Building Codes of the County of Charleston, the City of Mt. Pleasant and the State of South Carolina;

c) in failing to comply with the applicable Fire and Safety Codes of the County and of Charleston, the City of Mt. Pleasant and the State of South Carolina;

d) in failing to properly design and construct the structural elements and the foundation and other elements of the Project to permit the existence of an adequate and sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

e) e) in failing to establish and maintain a sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

f) in failing to properly supervise the project developer entities and individuals, project architects and engineers, as well as contractors, subcontractors, suppliers and/or agents or employees of any of them in connection with the planning, development, design and construction of the townhomes offered for sale to the public;

g) in manufacturing, fabricating, preparing for the incorporation into a residential building, reviewing, approving, procuring, and incorporating into the construction of this project such items which were defective, deficient, inferior, inadequate, unsafe, dangerous, inappropriate for the use intended, noncompliant with approved design or design intent, non-compliant with applicable codes and standards in the industry, and otherwise improper for use in the project including, but not limited to, HVAC systems, mechanical systems, plumbing systems, drainage systems, and sewer line systems without appropriate clean-out piping and/or other issues; electrical systems and equipment, interior and exterior drywall and other substrate and sheathing material, windows, insulation, roofing, waterproofing systems, and other building materials and supplies, finishes, and other items relating to the construction and ultimate use of this residential project;

h) in designing, constructing, marketing, selling, units and/or property with defective windows;

i) in designing, constructing, marketing, selling, units and/or properly with inadequate flashing;

j) in designing, constructing, marketing, selling, units and/or property with inadequate roofs;

k) in designing, constructing, marketing, selling, units and/or property with inadequate water barriers;

l) in designing, constructing, marketing, selling, units and/or property with without weather proof building envelopes and exteriors;

m) in designing, constructing, marketing, selling, units and/or property which were defective, deficient, inadequate, unsafe, dangerous, or otherwise non-compliant with codes and standards;

n) in placing defective and inferior construction into the stream of commerce;

o) in placing defective and inferior manufactured systems, equipment, building materials and other products into the stream of commerce.

p) in failing to permit and facilitate a proper evaluation of the condition of the Project prior to and during the process of offering units and other property for the use and sale to the general public and, further, to obstruct and/or hinder efforts to conduct a proper evaluation of the Project by intended purchasers or users;

q) in misrepresenting the condition of the units, common elements, garages and other property to prospective and actual purchasers and other users, and in making representations in negligent and/or intentional disregard of whether these representations were false or inaccurate;

r) in failing to undertake sufficient actions to develop a plan for repairs and otherwise failing to make adequate repairs to conditions at the project which were unsafe, dangerous, or otherwise not in compliance with applicable building codes or other authorities or standards of care;

s) in negligently and/or intentionally covering up deficiencies prior to construction of the units and other property for sale or use by the general public;

t) in failing to determine accurate information required, failing to disclose the absence of such information, as well as negligently and/or intentionally providing misleading and inaccurate information regarding the proper level of financial capitalization and reserve funding required for the operations, maintenance, and repairs required by the One Hamlin Association for the Project and individual unit owners;

u) in tendering common elements and other property to Plaintiffs in a deficient condition;

v) in failing to act as reasonable persons would in circumstances then and there prevailing and in such other failures as will be shown during discovery and at trial.

72. Said failures above-described, as well as the Defendants' gross negligence, willfulness, and reckless disregard for the rights of Plaintiffs and others, have actually and proximately caused damages to Plaintiffs, and the Defendants are liable to the Plaintiffs in an amount of actual, incidental, consequential, special, and punitive damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the

limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A SECOND CAUSE OF ACTION
(Against the Developer Defendants and Contractor Defendants)
(Negligent Misrepresentation)

73. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

74. These reports and representations were actually published and presented for information to the general public by these Defendants, and these representations were actually received by, and relied upon by, the prospective and actual purchasers of the townhomes at the Project.

75. At the time of the sale of the homes and the turnover of control of the One Hamlin Place Townhome Association from the Developer Defendants to the unit owners, Plaintiffs were not aware of the falsity of the representations or the lack of investigation and lack of candor by these Defendants in connection with the reports.

76. Plaintiffs subsequently determined that the representations made by these Defendants were false and that these Defendants failed to exercise due care, not only in failing to discover defects in the project, but also in failing to communicate information about the true condition of the Project. As a result of its justifiable reliance on the representations, reports, and other documents presented by these Defendants, Plaintiffs and its members have assumed control over the Project and/or purchased units, and have thereby suffered pecuniary losses in an amount to be determined by the trier of fact.

77. As a direct and proximate result of its justifiable reliance on numerous false representations made by these Defendants in connection with the Project, Plaintiffs have suffered, and these Defendants are liable to the Plaintiffs for, actual, incidental, consequential, and special damages, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A THIRD CAUSE OF ACTION
Breach of Implied Warranty
(Against the Contractor Defendants and the Developer Defendants)

78. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

79. The design, construction, development and sale of the units by these Defendants contained as a matter of law implied warranties of good faith and fair dealing, fitness for use merchantability, habitability, and workmanship with respect to construction, which warranties were not effectively disclaimed under South Carolina law.

80. The Developer Defendants, whether named or unnamed on the Deeds of Transfer, through their acts and/or omissions, have breached the aforesaid implied warranties, which directly, actually, and proximately caused and resulted in damage which the Plaintiffs have suffered and continues to suffer in an amount to be determined by the trier of fact.

81. These Defendants are therefore liable to the Plaintiffs for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any

other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A FOURTH CAUSE OF ACTION
Breach of Implied Warranty of Fitness of Habitability
(Against the Developer Defendants and the Contractor Defendants)

82. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

83. That the Defendants impliedly warranted as a matter of law that the subject Residences which they built were habitable and fit for their intended uses.

84. That this implied warranty was breached by the Defendants and the work was performed in a manner below ordinary workmanship and the subject Residences were neither habitable nor fit for their intended use causing damage to Plaintiffs.

AS A FIFTH CAUSE OF ACTION
Breach of Implied Warranty of Fitness for Particular Purpose
(Against the Developer Defendants and the Contractor Defendants)

85. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

86. The Defendants had the duty to develop, market and construct the subject Residences according to industry standards and in a good and workmanlike manner, and an implied warranty of fitness attached to the sales of these homes.

87. At the time of the sale of the subject Residences to the Plaintiffs, the Defendants had reason to know if any or all parts of the construction of the subject residences were not completed according to industry standards and in a good workmanship manner.

88. The Defendants, at the time of the sale of the subject Residences to the Plaintiffs, had reason to know that the Plaintiffs were relying on the skill and/or judgment of the Defendants to properly construct the homes and adjacent facilities according to industry standards and in a good and workmanlike manner. Plaintiffs, in fact, relied on the Defendants' skill and judgment.

89. The Defendants did not properly construct the subject homes and facilities according to industry standards and in a good and workmanlike manner, causing major defects to One Hamlin Place Townhomes.

90. As a result of the Defendants' breach of its implied warranties, Plaintiffs have suffered physical damages.

AS A SIXTH CAUSE OF ACTION
Breach of Implied Warranties as to the Project's Development and Construction
(Against the Developer Defendants and Contractor Defendants)

91. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

92. These Defendants engaged in conduct during the period of development and construction of the Project which gave rise to duties and implied warranties to the public including, but not limited to, tenants, purchasers and other users of the Project, in that by their conduct these Defendants placed the Project, which constitutes defective, deleterious, and dangerous property, into the stream of commerce.

93. The placement of the Project into the stream of commerce by these Defendants, contained as a matter of law implied warranties of fitness, merchantability, workmanship and habitability, which warranties were not effectively disclaimed pursuant to South Carolina law.

94. As a direct and proximate result of the breaches of the above-described implied warranties by these Defendants, their affiliates, associates, sham entities, and/or joint venturers, whether named or unnamed on any documents transferring interest in the Project, the Plaintiffs has suffered and will continue to suffer damages, injuries and other losses.

95. These Defendants are therefore liable to the Plaintiffs for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A SEVENTH CAUSE OF ACTION
(Individual Liability as to the Developer Defendants)

96. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

97. As a direct and proximate cause and result of the acts and omissions of these Defendants as aforesaid, Plaintiffs have been damaged, and these Defendants are liable to the Plaintiffs for actual, incidental, consequential, and special damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A EIGHTH CAUSE OF ACTION
Violation of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, *et seq.*
(Against the Developer Defendants and the Contractor Defendants)

98. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

99. These Defendants' construction and the subsequent offering and sale of the units, along with the issuance of the property condition reports and other representations to tenants, purchasers, and the public at large, constituted the conduct of trade and commerce within the meaning of S.C. Code Section 39-5-20(a).

100. The Defendants, and each of them, through their acts and omissions including, but not limited to, the following particulars, conducted unfair and deceptive practices within the meaning of S.C. Code Section 39-5-140(a) and 27-31-430, S.C. Code of Laws as amended:

a) in failing to properly evaluate the plans and specifications for the Project prior to construction;

b) in failing to conduct a reasonable inquiry into the conditions existing at the Project and marketing the units, common elements, and other property at the Project to the public for sale and use;

c) in failing to repair the latent defects about which these Defendants were or should have been aware;

d) in failing to carry out the fiduciary duties owed to prospective and actual purchasers and other members of the public in their special relationships of trust and confidence by virtue of their role in the process of offering these units, common elements, and other property for sale and use by the general public, as design professionals, licensed professionals, and sellers according to South Carolina law, and as Board Members and Directors of the One Hamlin Association;

e) in attempting to disclaim implied warranties of merchantability and habitability in documents contrary to South Carolina law;

f) in failing to provide any additional consideration for these purported efforts to waive implied warranties of merchantability and habitability;

g) in failing to properly investigate the true conditions of the Project and putting them into the stream of commerce;

h) in making false representations as to the condition of the Project and/or representations as to the condition of the Project in reckless disregard as to the truth of the representations;

i) in failing to analyze relevant data and conditions to determine adequate capital reserves for maintenance and operation of the Project by future owners and users;

j) in failing to provide adequate capital reserves and projections for adequate reserves for maintenance and operation of the Project prior to selling units and other property and prior to turning control of the One Hamlin Association over to the unit owners;

101. The conduct of the Defendants as described above was knowing and willful, and Defendants knew or should have known that such conduct was a violation of S.C. Code Section 39-5-20 and 27-31-430.

102. Plaintiffs are persons within the meaning of S.C. Code Section 39-5-140(a) and Plaintiffs have suffered actual, direct, and proximate damages as a direct and proximate result of unfair and deceptive acts of these Defendants, in an amount to be determined by the trier of fact.

103. The aforesaid acts of Defendants impact the public interest in that they constituted unfair and deceptive acts and have the potential for repetition and, in fact, occurred at each and every sale of the units of this Project and, as such, are acts which can, have and will affect the public at large by repetition.

104. These unfair and deceptive acts are acts which will affect members of the public, beyond the parties to the above-described transactions, in the form of other consumers who may be injured by purchasing townhomes by the Defendants and/or rely upon the actions and representations of these Defendants thereby placing members of the public in danger of physical and other injuries.

105. Plaintiffs are entitled to be compensated pursuant to S.C. Code Section 39-5-140(a) for the above-described actual, incidental, consequential, and special damages, as well as costs, interest, and attorney's fees, and to recover three (3) times these damages by reason of the knowing and willful nature of the unfair and deceptive acts by Defendants and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A NINTH CAUSE OF ACTION
Breach of Fiduciary Duty by Initial Board Members of the One Hamlin Place Townhome Association, Inc.
(As to the Developer Defendants)

106. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

107. These Defendants, at all times during which they were Directors of the One Hamlin Place Association Board and/or the Board of the One Hamlin Association's predecessor entity, were charged with the duty of administration, care and maintenance of the regime property and its common elements according to the terms of the Master Deed and with safeguarding any interests and rights of the members, both present and future, of the regime as unit owners or they undertook such duties.

108. These Defendants breached these obligations by their acts and omissions such that they have committed breaches of fiduciary duties, negligence, gross negligence, recklessness, willfulness, wantonness, bad faith, mismanagement, self-dealing and waste with respect to their duty of administration, care and maintenance of the regime property and their duty to protect the interests and rights of the individual members of the One Hamlin

Association, along with their duty to protect and preserve the regime property. These wrongful acts and omissions have caused and will cause the Plaintiffs to incur and continue to incur substantial monetary damages.

109. These Defendants owed a duty to Plaintiffs to exercise that degree of skill necessary to insure that the regime property was properly maintained and to keep the owners informed of serious defects found or discovered and to protect the owners' property interest in conformity with customary and ordinary standards.

110. These Defendants held themselves out to the public as qualified and experienced in the administration and management of multifamily residential properties and, in particular, the Developer Defendants held themselves out as qualified and experienced in the building of townhomes, and these representations of experience and qualifications were imputed to the Developer Defendants by virtue of their legal relationship and appearance to the public as an indistinguishable single entity by and through the operation of the various individuals and affiliated entities.

111. These Defendants' negligent, reckless and willful conduct includes, but is not limited to:

a) failing to properly inform the tenants, prospective purchasers, and unit owners of the conditions known or which should have been known at the time each owner purchased a unit;

b) failing to properly oversee the regime in order to ensure that all defects discovered by the Defendants or which should have been discovered by the Defendants, were reported so that repairs could proceed in accordance with the customary and ordinary standards of construction at the expense of the Defendants;

c) failing to report the defective conditions of the Project to any owners or the Plaintiffs at the time of the turnover to the One Hamlin Association;

d) failing to inform the Board and the individual unit owners of the true nature of the defective conditions of the townhome property at the time of turnover;

e) placing their loyalties to themselves and/or their affiliated entities above the loyalties they owed to Plaintiffs and unit owners;

f) failing to raise sufficient capital through assessments or otherwise from the Defendants prior to turnover so that adequate funds would be available to mitigate the substantial damages which were and are resulting from the aforementioned significant design and construction defects and deficiencies; and

g) participating in self-dealing, sacrificing the One Hamlin Association's and the unit owners' interests for their own interests and the interests of themselves and/or their affiliated entities;

h) failing to reasonably plan or anticipate the adequate reserve for insurance premiums required to be paid by the One Hamlin Association, and resigning from the Board of Directors of the Association and ceding control over the Association to the unit owners.

112. As a direct and proximate result and consequence of the aforementioned negligent, grossly negligent and reckless acts or omissions of these Defendants, Plaintiffs have and will continue to be required to spend substantial sums of money in connection with the extraordinary repairs and reconstruction of the Project and the associated loss of use and other damages.

113. The Defendants' breaches of duty, acts, errors, and omissions as set forth above caused, among other damages: physical injury to tangible property; a resulting loss of use of that property; and Plaintiffs resulting money damages due to budget deficits and special assessments; all of which were directly and proximately caused by and resulting from the Defendants' negligence, willfulness, wantonness, and recklessness directly related to the

mismanagement of the Project by the Defendants prior to turning over control of the Project to the One Hamlin Place Townhome Association Board.

114. Each of the wrongful acts of the Defendants as described above that occurred in connection with the mismanagement of the Project constituted gross negligence and were more than momentary thoughtlessness, inadvertence or error in judgment on the part of the Defendants with regard to representations consisting of either affirmative statements or silence when there was a duty to speak; instead, these wrongful acts or omissions constitute a complete lack of care and conscious indifference to the rights, welfare or property of the Plaintiffs, tenants, prospective purchasers, and unit owners, and were intended to cause financial harm to the Plaintiffs and its members.

115. The Defendants as described above had a fiduciary relationship and owed fiduciary obligations and duties to Plaintiffs.

116. The Defendants as described above at all relevant times were or should have been aware of, among other things, the extensive and severe construction defects and deficient conditions at the Project. The Defendants' failure to properly investigate the extent of the defects and problems; their failure to properly investigate the extent of these defects and problems; their failure to properly mitigate the damaging effects of these problems and defects; and their failure to properly safeguard the rights and interests of Plaintiffs, all constitute breaches of their fiduciary obligations to Plaintiffs.

117. Upon information and belief, Defendants purposely withheld their knowledge of the above-described defects, despite receiving notification thereof, and problems from Plaintiffs or consciously failed to investigate the defects knowing that the Defendants would

find defects to the extreme detriment of Plaintiffs and against the Plaintiffs' pecuniary interest. In failing to notify Plaintiffs, these Defendants knowingly caused Plaintiffs to become responsible for and liable for the above-described needed extraordinary repairs and reconstruction expenses such that these Defendants breached their fiduciary duties owed to Plaintiffs including, but not limited to, the duty to perform, the duty of care and skill, the duty of good conduct, the duty to give information, the duty to keep and render accounts, and the duty to act only as authorized.

118. As a direct and proximate result of their breaches of their fiduciary duties to the Plaintiffs, these Defendants are liable to the Plaintiffs for the actual, direct, consequential, incidental, special, and punitive damages as aforesaid, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS AN TENTH CAUSE OF ACTION
Breach of Fiduciary Duty
(As to the Developer Defendants)

119. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

120. These were required to use good judgment and act in the utmost good faith to complete the formation of and operate the One Hamlin Association until it was turned over to the unit owners' control.

121. Prior to ceding control over the One Hamlin Association to the unit owners, these Defendants had the unilateral ability to determine the assessments against individual

owners and were required to fund shortfalls between the assessments necessary to perform the duties and obligations of the Master Deed and By-laws and the assessments actually collected from individual unit owners.

122. These Defendants failed to establish and provide adequate capital reserves and projections for the sufficient maintenance and repair of the Project prior to turning the One Hamlin Association over to the unit owners, in that the limited repairs and maintenance done were substandard and inadequate and were intended to and, in fact did, conceal instead of correct the latent defects that existed in the Project and of which these Defendants were or should have been aware.

123. These Defendants sought and obtained a special relationship of trust and confidence with the Plaintiffs and, as such, these Defendants owed a fiduciary duty to the Plaintiffs to ensure that the Project was safe, habitable, and in good repair at the time the Project was turned over to the One Hamlin Association, and/or these Defendants were required to provide funds sufficient to bring the Project to a safe, habitable and code-compliant condition and in good repair as required by South Carolina law.

124. These Defendants owed a duty to the Plaintiffs to turn over the Project including, but not limited to, its common areas in a safe, habitable, code-compliant condition and in good repair.

125. These Defendants negligently, carelessly, recklessly, willfully and wantonly failed to turn over common areas, units, and other property that was safe, habitable, in code-compliant condition and in good repair, and failed to establish guidelines and plans to ensure

that the property interests of the Plaintiffs would be preserved and protected in conformity with the customary and normal standards in the townhome management industry.

126. These Defendants further failed to establish and provide sufficient capital replacement reserves at the time of the turn over to effectuate the necessary repairs and to bring the substandard conditions up to a state of code compliance and good repair.

127. As a direct and proximate result of the negligent, reckless, willful, wanton and grossly negligent conduct of these Defendants, Plaintiffs have and will continue to be required to expend substantial sums of money in order to investigate, design, repair and implement the necessary repairs and alterations to bring the Project to a condition which is consistent with the representations made by the Developer Defendants in property condition disclosures made during the construction and sale process for units at the Project, and Plaintiffs will suffer other and further injuries, damages, and losses as a direct and proximate result of the acts and omissions of these Defendants.

128. As a direct and proximate result of their breaches of their fiduciary duties to the Plaintiffs, these Defendants are liable to the Plaintiffs for the actual, direct, consequential, incidental, special, and punitive damages to the Plaintiffs as aforesaid, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A ELEVENTH CAUSE OF ACTION
Breach of Contract
(Against the Developer Defendants)

129. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

130. These Defendants entered into oral and/or written contractual arrangements with Plaintiffs relating to the representation in a purchase and sale transaction, as well as the purchase of units and other property within the Project, and the right to beneficial use of common elements and amenities to be established, coordinated, and managed by these Defendants, and these Defendants received consideration which was adequate and accepted pursuant to the terms of the Defendants' offer of ownership, goods, and/or services which were accepted by the Plaintiffs.

131. Based upon the terms of their contractual agreements, along with the duties which flowed from these Defendants by virtue of the Master Deed and By-laws, real estate agency or other agreements for representation by these Defendants, and the purchase agreements for individual townhome units and other property interests at the Project, these Defendants owed a contractual obligation to Plaintiffs which required that these Defendants ensure that the Project was safe, habitable, code-compliant, and in a condition consistent with these Defendants' representations prior to turning over control of the Project to the unit owners or, in the alternative, these Defendants had a duty to establish and fund sufficient capital reserves which could be used by the Plaintiffs to repair any of these deficient and defective conditions at the Project.

132. In breach of these contractual obligations and in breach of the Master Deed, By-laws, and real estate agency and other agreements, these Defendants failed to make a full investigation of conditions at the Project, and failed to disclose the existence of the known defects at the Project, which constitutes a breach of contract and violation of the terms of the Master Deed and By-laws by these Defendants as described above.

133. In addition to and accompanying this breach of these contractual and other obligations, these Defendants made material representations which were false as more fully described in this Complaint which the Plaintiffs relied upon to the Plaintiffs detriment.

134. As a direct and proximate result thereof, Plaintiffs have and will continue to suffer, and the actual, incidental, special, and consequential damages and other injuries including, but not limited to, the damages and injuries associated with the acts and omissions which constituted the breach of contract by these Defendants as aforesaid, all in an amount to be determined by the trier of fact.

135. These Defendants are therefore liable to the Plaintiffs for the actual, incidental, special, and consequential damages and other injuries as aforesaid in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A TWELFTH CAUSE OF ACTION
Violation of the Residential Property Condition Disclosure Act
(Against the Developer Defendants)

136. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

137. These Defendants were engaged in a joint venture, partnership, or some other form of business venture or association including, but not limited to, the formation of a Limited Liability Company, in connection with the development and construction of the One Hamlin Place Townhomes.

138. The Developer Defendants did so place the townhome units into the stream of commerce for sale to the general public and to the members of the One Hamlin Association in particular.

139. At all times relevant to this cause of action the Developer Defendants were "owners" as that term is used within S.C. Code Ann. § 27-50-10 *et seq.,* referred to as the "South Carolina Residential Property Condition Disclosure Act" (referred to in the remainder of this cause of action as the "Act").

140. The Developer Defendants failed to furnish to the purchasers of the townhome units a written disclosure statement in conformity and compliance with S.C. Code Ann. § 27-50-40.

141. These Defendants failed to inform the sellers of the units of their obligations under the Act and had reasonable cause to suspect that the information, if any, supplied by the sellers to the individual purchasers was inherently false, incomplete, and misleading.

142. Upon information and belief, notwithstanding the above-described failures of these Defendants, and each of them, knowingly violated and/or failed to perform the duties described in§ 27-50-40.

143. The nature of the defects that were undisclosed in violation of§ 27-50-40, prevented and/or limited any inspection performed by the Plaintiffs to uncover or discover the said defects.

144. As a direct and proximate result of these Defendants' violations of their respective and collective duty to furnish written disclosure to the purchasers as required by§ 27-50-10, *et seq.,* the Plaintiffs have suffered, and these Defendants are liable to the Plaintiffs for, actual, incidental, consequential, and special damages, along with costs, interest, and attorney's fees pursuant to the remedies set forth in the Act, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A THIRTEENTH CAUSE OF ACTION
Strict Liability
(Against the Developer Defendants)

145. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

146. Each and every townhome unit sold by these Defendants was a product within the meaning of S.C. Code Section 15-73-10, *et seq.*

147. These Defendants are and were engaged in the business of selling the aforesaid townhome units which are within the meaning of S.C. Code Section 15-73-10, *et seq.*

148. The aforesaid townhome units/products were expected to, and in fact did, reach the Plaintiffs herein as Users or Consumers without substantial change in condition in which it was sold within the meaning of Section B of S.C. Code 15-73-10, *et seq.*

149. The townhome units/products which were sold by these Defendants were at the time of sale in a defective condition, unreasonably dangerous to Plaintiffs as a User or Consumer or to the Plaintiffs property and, as such, these Defendants are strictly liable to Plaintiffs as Users or Consumers herein for the physical harm and damage proximately caused thereby.

150. As a direct and proximate result thereof, Plaintiffs as Users or Consumers have suffered, and these Defendants are liable to the Plaintiffs for, actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

AS A FOURTEENTH CAUSE OF ACTION
Alter Ego Liability and Piercing the Corporate Veil
(Against Developer Defendants)

151. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

152. The Developer Defendants, by and through various instrumentalities and alter-egos and other Defendants were the original developers of the Project, and the Developer Defendants combined and joined together through various instrumentalities and alter egos to facilitate to process of building the townhome units in or about 2006-2007.

153. The Developer Defendants created and controlled numerous and various entities including, but not limited to, the Wieland Defendants, Builder Support Services, Inc. and Wheelock, set forth hereinabove, for the sole purpose of the construction, development,

purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and sale of the townhomes that are known as the One Hamlin Place Townhomes. The Developer Defendants created and controlled numerous and various entities including, but not limited to, Wieland, for the sole purpose of the building and sale of the townhomes at the Project. These Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of these Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between these Defendants and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

154. These Defendants created entities which were created to perform single purpose functions in order to effectuate the sole will of these Defendants in purchasing, developing, leasing, and/or selling the units. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, these Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

155. These Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction,

management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

156. The sham entities established by these Defendants were and are characterized by one or more of the following: (I) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) Insolvency; (5) lack(ed) proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of these Defendants, these Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or these Defendants directly contracted for the sham entities in the name of these Defendants.

157. These Defendants directed and oversaw the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

158. There would exist a broad element of injustice and fundamental unfairness if the acts of these Defendants, and each of them individually, were not regarded as the acts of one another.

159. At the time the units were offered for sale and placed into the stream of commerce by these Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct

and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of these Defendants.

160. The Developer Defendants and the Contractor Defendants, and each and every other above-captioned Defendant knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

161. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

162. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

163. The Plaintiffs suffered damages and injuries when these Defendants put these units into the stream of commerce and continue to be damaged and injured through the date of this filing.

164. As a direct and proximate result thereof, these Defendants are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

a) Enter judgment in favor of the Plaintiffs and against all Defendants, jointly and severally, in an amount to be determined for actual, incidental, consequential, special, and punitive damages;

b) Find that the Defendants have engaged in unfair trade practices and knowingly did so thereby entitling Plaintiffs to treble damages;

c) Award attorneys' fees and costs to the Plaintiffs; and

d) Award such other and further relief as the Court may deem just and proper.

[Signature Page to Follow]

Respectfully Submitted,

John C. Hayes, IV, Esquire
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Charleston, SC 29401
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and

I. Keith McCarty, Esquire
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ATTORNEYS FOR PLAINTIFFS

October 11, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
One Hamlin Place Townhome Association, Inc.)
Plaintiff(s))
)
vs.)
)
John Wieland Homes and Neighborhoods of the Carolinas, Inc., et al.,)
Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP - 10- 5245

(Please Print)
Submitted By: I. Keith McCarty, Esquire
SC Bar #: 66447
Telephone #: 843-805-7003
Fax #:
Other:
E-mail: ikeithmccarty@gmail.com

Address: McCarty Law Firm, P.C.
1212 Wappoo Road
Charleston, SC 29407

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

FILED
2017 OCT 12 PM 3:38
JULIE J. ARMSTRONG
CLERK OF COURT
BY

DOCKETING INFORMATION (*Check all that apply)*

***If Action is Judgment/Settlement do not complete*

☒ **JURY TRIAL** demanded in complaint. ☐ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☒ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)

Previous Notice of Intent Case # 20____-CP-_____-_____

- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts – Personal Injury
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Other (799)

Administrative Law/Relief
- ☐ Reinstate Driver's License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Commission (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Sexual Predator (510)

Submitting Party Signature: I. Keith McCarty **Date:** 10/12/2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)

4. Cases are exempt from ADR only upon the following grounds:

    a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

    b. Requests for temporary relief;

    c. Appeals

    d. Post Conviction relief matters;

    e. Contempt of Court proceedings;

    f. Forfeiture proceedings brought by governmental entities;

    g. Mortgage foreclosures; and

    h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	CASE NO: 2017-CP-10-5245
One Hamlin Place Townhome Association, Inc.,)	
Plaintiff,)	**SUMMONS**
vs.)	**(Jury Trial Demanded)**
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, individually, Sue Wieland, Lindsey Parker, Robert Parker, Jack Wieland, Jeorge Medina, Jeorge Medina a/k/a JMC Construction, Inc., John Does (1-50), and Jane Does (1-50),)	
Defendants.)	

FILED
2017 OCT 12 PM 3:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Summons and

Complaint upon the subscribers at their office at 180 Meeting Street, Suite 330, Charleston, South Carolina within 30 days after the service hereof, exclusive of the day of such service, and if you fail to answer within the prescribed time, a judgment by default will be rendered against you for the amount or other remedy requested in the attached Complaint, plus interests and costs.

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ATTORNEYS FOR PLAINTIFFS

October 12, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO: 2017-CP-10-5245
One Hamlin Place Townhome Association, Inc.,	)	
Plaintiff,	)	**COMPLAINT**
vs.	)	**(Jury Trial Demanded)**
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, individually, Sue Wieland, Lindsey Parker, Robert Parker, Jack Wieland, Jeorge Medina, Jeorge Medina a/k/a JMC Construction, Inc., John Does (1-50), and Jane Does (1-50),	)	
Defendants.	)	

FILED
2017 OCT 12 PM 3:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The Plaintiff, complaining of the Defendants above named, would allege and show unto this Honorable Court as follows:

1. One Hamlin Place Townhome Association, Inc. (hereinafter "Association" or "One Hamlin") is a duly authorized South Carolina non-profit corporation.

2. Defendants John Wieland Homes and Neighborhoods of the Carolinas, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builder Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., Wheelock Street Real Estate Land Fund, LP, and Annisquam Development, LLC are, upon information and belief, corporations organized and existing under the laws of the State of South Carolina and are authorized to conduct business in this state.

3. Defendants Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., John Wieland, Sue Wieland, Lindsey Parker, Jack Wieland, Robert Parker are, upon information and belief, foreign corporations or individuals that transact business in the State of South Carolina.

4. Upon assuming the roles as stated above, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

5. Furthermore, in assuming the roles stated above, the Defendants undertook to make certain that this Community was developed and constituted in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

6. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

7. This Court has jurisdiction over the parties and subject matter hereto.

8. The construction of One Hamlin was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin according to the normal standards of good and workmanlike practice in the construction field.

9. Construction defects in the One Hamlin have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water intrusion damage resulting from defects;

(d) Improper flashing installation; and

(e) Other defects.

10. Defendant John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. (hereinafter referred to as "Wieland SC") is a corporation organized and existing under the laws of the State of South Carolina and, at all times relevant hereto, was authorized to and did conduct business in the State of South Carolina, County of Charleston for the purpose of

planning, developing, marketing, owning, maintaining, leasing, selling, and constructing the townhomes in a manner for sale to the public.

11. Defendant John Wieland Homes of Charleston, Inc., upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina and is authorized to conduct business in this state, and have a principal place of business in Charleston County Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

12. Defendant John Wieland Homes, Inc., upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina and is authorized to conduct business in this state, and have a principal place of business in Charleston County Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

13. Defendant Builder Support Services of the Carolinas, Inc., upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina and is authorized to conduct business in this state.

14. Defendant Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc., is a joint venture with the Wieland Defendants formed in November 2012.

15. Defendant Wheelock Street Real Estate Land Fund, LP is a limited partnership which transacts business in the State of South Carolina.

16. Defendant Wheelock Street Investment Management, LLC is a foreign corporation which transacts business in the State of South Carolina.

17. Defendant RP Falcon Properties, LLC, formerly JW Homes, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware which transacts business in South Carolina

18. Defendant Residential Partners, LLC is a limited liability company which transacts business in the State of South Carolina.

19. Defendant Middlesex Holdings, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transacts business in South Carolina.

20. Defendant WS JWH, LLC is a single-purpose entity that transacts business in South Carolina.

21. Defendant JWC Phoenix, LLC is a foreign corporation organized and existing under the laws of the State of Delaware which transacts business in South Carolina.

22. Defendant Bridgemill Land, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transacts business in South Carolina.

23. Defendant Annisquam Development, LLC is a limited liability company organized and existing in South Carolina.

24. Defendant JW Land Investment, LLC is a foreign corporation which transacts business in South Carolina.

25. Defendant JWC Guilford, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transactions business in South Carolina.

26. Defendant OOTB, LLC is a foreign corporation organized and existing under the laws of the State of Georgia which transactions business in South Carolina.

27. Defendant Wieland Realty Associates, Inc. is a foreign corporation organized and existing under the laws of the State of Georgia which transactions business in South Carolina.

28. Defendant John Wieland is an individual with his primary place of domicile in the State of Georgia.

29. Defendant Sue Wieland is the wife of Defendant John Wieland. Upon information and belief, Sue Wieland's place of domicile is in the State of Georgia.

30. Defendants Lindsey Parker and Jack Wieland are the daughter and son of John and Sue Wieland, and Defendant Robert Parker is the son-in-law of John and Sue Wieland. Upon information and belief, Jack Wieland's place of domicile is in the State of Georgia; Robert and Lindsey Parker's place of domicile is in Massachusetts.

31. Defendant Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., is upon information and belief, is a corporation organized pursuant to the laws of the State of South Carolina.

32. Upon information and belief, John Does 1-50 and Jane Does 1-50 are individuals or entities organized pursuant to the laws of the State of South Carolina or other states. At all times relevant herein, John Does 1-50 and Jane Does 1-50 were engaged in the business of selling, constructing homes, renovating, supplying products materials and/or services to that end in Charleston, South Carolina.

33. One Hamlin Place Townhomes is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina and, upon information and belief, was owned, developed, marketed and constructed by the Defendants.

34. Upon assuming the roles as stated above, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

35. Furthermore, in assuming the roles stated above, the Defendants undertook to make certain that this Community was developed in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

36. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

37. This Court has jurisdiction over the parties and subject matter hereto.

38. The construction of One Hamlin Place Townhomes was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin Place Townhomes according to the normal standards of good and workmanlike practice in the construction field.

39. Construction defects in the One Hamlin Place Townhomes have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water intrusion damage resulting from defects;

(d) Improper flashing installation; and

(e) Improper window installation.

40. As a direct and proximate result and consequence of the faulty construction by the Defendants of Plaintiff's homes, causing major problems and defects thereto, the Plaintiff have and will continue to spend substantial sums of money for the repairs and reconstruction of major portions of One Hamlin Place Townhomes and will be subject to consequential damages.

FOR A FIRST CAUSE OF ACTION
(Unfair Trade Practices)

41. Plaintiff and the Defendants are "persons" within the meaning of S.C. Code § 39-5-10(a).

42. The Defendants, by developing, marketing and constructing the subject Residences, were engaged in commerce within the meaning of S.C. Code § 39-5-10(b).

43. The Defendants' actions, described hereinabove, constitute unfair and deceptive practices within the meaning of S.C. Code § 39-5-20(a).

44. The Defendants' acts are capable of repetition, and, upon information and belief, have been repeated.

45. The Defendants' conduct affects the public interest of South Carolina.

46. The Defendants knew, or reasonably should have known, that their conduct violated the Unfair Trade Practices Act.

47. As a direct foreseeable and proximate result of the Defendants' unfair and deceptive practices, Plaintiff has suffered an ascertainable loss of money and property.

48. Plaintiff is entitled to recover his actual damages, which amount should be trebled, together with interest and attorney's fees.

FOR A SECOND CAUSE OF ACTION
(Breach of implied Warranty of Fitness of Habitability)

49. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 22 above, as if sully set forth herein verbatim.

50. That the Defendants impliedly warranted as a matter of law that the subject Residences which they built were habitable and fit for their intended uses.

51. That this implied warranty was breached by the Defendants and the work was performed in a manner below ordinary workmanship and the subject Residences were neither habitable nor fit for their intended use causing damage to Plaintiff.

FOR A THIRD CAUSE OF ACTION
(Breach of Implied Warranty of Fitness for Particular Purpose)

52. The Plaintiff incorporates into this cause of action the allegations in Paragraphs 1 through 25 above, as fully as if repeated verbatim herein.

53. The Defendants had the duty to develop, market and construct the subject Residences according to industry standards and in a good and workmanlike manner, and an implied warranty of fitness attached to the sales of these homes.

54. At the time of the sale of the subject Residences to the Plaintiff, the Defendants had reason to know if any or all parts of the construction of the subject residences were not completed according to industry standards and in a good workmanship manner.

55. The Defendants, at the time of the sale of the subject Residences to the Plaintiff, had reason to know that the Plaintiff was relying on the skill and/or judgment of the

Defendants to properly construct the homes and adjacent facilities according to industry standards and in a good and workmanlike manner. Plaintiffs, in fact, relied on the Defendants' skill and judgment.

56. The Defendants did not properly construct the subject homes and facilities according to industry standards and in a good and workmanlike manner, causing major defects to One Hamlin Place Townhomes.

57. As a result of the Defendants' breach of its implied warranties, Plaintiff has suffered physical damages.

FOR A FOURTH CAUSE OF ACTION
(Negligence/ Gross Negligence)

58. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 31 above, as if fully set forth herein verbatim.

59. The construction of the subject Residences by the Defendants deviated from the normal standards of good and workmanlike practice in the construction filed in the following particulars, to-wit:

(a) In failing and omitting to construct the residences in conformity with the applicable building codes, so as to create statutory violations;

(b) In failing and omitting to construct the subject Residences pursuant to good and workmanlike construction practices;

(c) In failing and omitting to install proper flashing throughout the subject Residences;

(d) In failing and omitting to properly seal the subject Residences' exteriors to prevent water infiltration and intrusion;

60. As a direct, foreseeable and proximate result of the Defendants' negligence, Plaintiff has suffered damages in the amount equal to the extraordinary repair, maintenance and reconstruction costs required and to be required over the expected life of the structure.

FOR A FIFTH CAUSE OF ACTION
(Breach of Contract)

61. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 34 above as if set forth herein verbatim.

62. That the Defendants entered into a contract with the homeowners and/or predecessors-in-title, whereby the Defendants were to construct the subject homes and facilities to industry standards and in a good workmanlike proper manner.

63. The Defendants did not honor their obligations under the agreement with the Plaintiff and/or their predecessors-in-title in that they failed to construct subject Residences according to industry standards and in a good, workmanlike proper manner causing major defects to the homes.

64. That the Defendants are in breach of the parties' contracts.

65. That as a result of the Defendants' breach of contract, the Plaintiff has suffered and will continue to suffer and are entitled to recover monetary damages caused by the defective construction by the Defendants and for loss of use and diminution in value of the subject Residences.

FOR A SIXTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

66. Plaintiff repeats and realleges the allegations contained in the above paragraphs as if more fully set forth herein.

67. The Defendants had a fiduciary duty and duty of loyalty and good faith dealing to transfer One Hamlin Place Townhomes to the control of the Plaintiff in a state of good repair. Defendants, having transferred elements with the defects and deficiencies set forth above, in the alternative is required to provide the Plaintiff with the funds necessary to bring the elements up to standard of reasonably good repair and condition.

68. Defendants breached their fiduciary duty and duty of loyalty and good faith dealing by transferring the elements in a substandard and deficient condition without the funds necessary to bring them up to standards of good repair and condition.

69. As a direct and proximate result and consequence of the Defendants' actions, Plaintiff has suffered damages in the amount equal to the extraordinary repair, maintenance and reconstruction costs required and expended, and to be required and expended, over the expected life of the buildings and other improvements, loss of use and diminution in value.

FOR A SEVENTH CAUSE OF ACTION

(Alter Ego Liability and Piercing the Corporate Veil)

70. Plaintiffs repeat and reallege each and every allegation of this Complaint as if fully set forth herein verbatim.

71. The Defendants, by and through various instrumentalities and alter-egos and each other were the original developers of the Project, and the Defendants combined and joined together through various instrumentalities and alter egos to facilitate to process of building the townhome units in or about 2006-2007.

72. The Defendants created and controlled numerous and various entities including, but not limited to, the Wieland Defendants, Builder Support Services, Inc. and Wheelock, set forth hereinabove, for the sole purpose of the construction, development, purchase of

property, sale of property, leasing of townhomes, and other activities solely relating to development and sale of the townhomes that are known as the One Hamlin Place Townhomes. The Defendants created and controlled numerous and various entities including, but not limited to, Wieland, for the sole purpose of the building and sale of the townhomes at the Project. These Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of these Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between these Defendants and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

73. These Defendants created entities which were created to perform single purpose functions in order to effectuate the sole will of these Defendants in purchasing, developing, leasing, and/or selling the units. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, these Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

74. These Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction,

management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

75. The sham entities established by these Defendants were and are characterized by one or more of the following: (I) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) Insolvency; (5) lack(ed) proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of these Defendants, these Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or these Defendants directly contracted for the sham entities in the name of these Defendants.

76. These Defendants directed and oversaw the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

77. There would exist a broad element of injustice and fundamental unfairness if the acts of these Defendants, and each of them individually, were not regarded as the acts of one another.

78. At the time the units were offered for sale and placed into the stream of commerce by these Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct

and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of these Defendants.

79. All Defendants knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

80. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

81. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

82. The Plaintiffs suffered damages and injuries when these Defendants put these units into the stream of commerce and continue to be damaged and injured through the date of this filing.

83. As a direct and proximate result thereof, these Defendants are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

WHEREFORE, the Plaintiff prays that this Court issue an Order granting judgment for the Plaintiff against the Defendants, jointly and severally, for the following:

(a) for actual damages in an amount to be proven at trial;

(b) for trebled damages under S.C. Code § 39-5-10, et seq.;

(c) for punitive damages;

(d) for prejudgment and post judgment interest on Plaintiff's damages;

(e) for attorney's fees and costs; and

(f) for such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

John C. Hayes, IV, Esquire
Hayes Law Firm, LLC
180 Meeting Street, Suite 330
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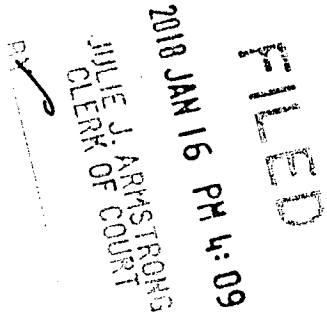
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ATTORNEYS FOR PLAINTIFFS

October 11, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON One Hamlin Place Townhome Association, Inc., Plaintiff, vs. John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (41-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource – Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2017-CP-10-5245 **AMENDED COMPLAINT** **(Jury Trial Demanded)**



(U.S.A), Inc.; Wheelock Street Real)
Estate Fund II, LP; Wheelock Street)
Real Estate Fund V, LP; WSREF, NRT,)
LLC; JW Homes, LLC; JWH RPIV,)
LLC; RP Falcon Land, LLC; Wieland)
Realty, LLC; RP Falcon Realty, LLC;)
Residential Partners II, LLC; Residential)
Partners III, LLC; Residential Partners)
IV, LLC; Paul M. Vasquez;)
Neighborhood Management Associates,)
Inc.; Billie and Antonio Arias d/b/a)
Antonio Arias Framing Construction;)
Tru-Don Contracting, Inc.; Fine)
Builders, LLC; Jose Alfredo Sandoval;)
Chad Larsen d/b/a Chad Larsen Co.;)
Ivan Jose Paiz d/b/a Jose Construction;)
William B. Angel; East Coast Wall)
Systems, Inc.; Tracyinne Construction)
a/k/a T&C Construction, LLC;)
Frankcisco and Andrea DaCosta d/b/a)
AAA Coastline, Inc.; Jack R. Clark d/b/a)
Jack Clark Construction, LLC; Alex)
Welch; Tracy McCuiston d/b/a)
Mastercraft Interior and Exterior;)
Universal Forest Products Eastern)
Division, Inc. a/k/a UFP Eastern)
Division, Inc.; Gonzalo Guerrero; A-)
Marc, Inc..; Emmanuel Kehagis d/b/a)
Creative Construction; Anthony)
Kirksey; Polly S. Clark d/b/a Glenn)
Clark Construction; Benjamin Mora)
a/k/a Benjamin L. Mora d/b/a Mora)
Construction f/k/a Mora's Construction)
and Benjamin Mora Construction, LLC)
n/k/a Mora Construction, LLC; Daniel)
L. Rogers d/b/a Rogers Roofing Co.,)
Inc. n/k/a Dan Rogers Roofing, LLC;)
William C. Mulhern d/b/a Bill's)
Painting; Mark A. McFarland d/b/a In)
the Wind, Inc.; Harbor Master, Inc.;)
Chad Hood; Kinco Ltd. a/k/a Kinco,)
Inc.; Atrium Companies, Inc. d/b/a)
Atrium Windows and Doors, Inc. a/k/a)
HR Windows; The Contractor Yard,)
Inc.; New Construction Drywall Hanger,)
LLC f/k/a New Construction Drywall)

Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina;	)
Defendants.	)

The Plaintiff, complaining of the Defendants above named, would allege and show unto this Honorable Court as follows:

1. One Hamlin Place Townhome Association, Inc. (hereinafter "Association" or "One Hamlin") is a duly authorized South Carolina non-profit corporation.

2. Defendants John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc.; AC Construction, Inc.; Annisquam Development, LLC; Jorge Medina and JMC Construction, Inc.; Muhler, LLC a/k/a The Muhler Company, Inc.; A-Marc, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Neighborhood Management Associates, Inc.; Tru-Don Contracting, Inc.; Fine Builders, LLC; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc.; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc. are, upon information and belief, corporations organized and existing under the laws of the State of South Carolina and are authorized to conduct business in this state. Scott Parker; Paul M. Vasquez; Jose Alfredo Sandoval; Chad Larsen d/b/a

Chad Larson Co.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Gonzalo Guerrero; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; William C. Mulhern d/b/a Bill's Painting; Chad Hood; Doug Pilcher; Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez d/b/a GR Painting; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Latitude Construction Services, LLC; and Richard Ditullio a/k/a RDT Contracting, LLC are, upon information and belief, contractors licensed in the State of South Carolina.

3. Defendants Bridgemill Land, LLC; Builder Support Services of the Carolinas, Inc.; Builders FirstSource – Southeast, LLC; John Wieland Homes and Neighborhoods of the Carolinas, Inc.; John Wieland Homes and Neighborhoods of Charleston, Inc.; JW Homes, LLC; JW Land Investment, LLC; JW Realty Associates, Inc.; JWC Guilford, LLC; JWC Phoenix, LLC; JWH RPIV, LLC; Middlesex Holdings, LLC; OOTB, LLC; Residential Partners, LLC; RP Falcon Properties, LLC; RP Falcon Realty, LLC; RP Falcon Land, LLC; Wheelock Street Capital, LLC; Wheelock Street Investment Management, LLC; Wheelock Street Real Estate Fund, LP; Wieland Realty Associates, Inc.; Wieland Realty, LLC; WS JWH, LLC; WSREF NRT, LLC; and YKK (U.S.A.), Inc.; East Coast Drywall Systems, Inc.; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Kinco Ltd. a/k/a Kinco, Inc.; The Contractor Yard, Inc. upon information and belief, are foreign corporations that transact business in the State of South Carolina. John Wieland, Sue Wieland, Lindsey Parker, Jack Wieland, and Robert Parker are, upon information and belief, residents of foreign states and transact business in South Carolina.

4. Upon assuming the roles as stated below, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

5. Furthermore, in assuming the roles stated below, the Defendants undertook to make certain that this Community was developed and constituted in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

6. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

7. This Court has jurisdiction over the parties and subject matter hereto.

8. The construction of One Hamlin was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin according to the normal standards of good and workmanlike practice in the construction field.

9. Construction defects in the One Hamlin have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water damage along porches;

(d) Water and moisture intrusion damage resulting from defects including but not limited to the photographs attached as Exhibits 1-16;

(e) Improper flashing installation

(f) Numerous other construction defects that have caused consequential damages to the buildings and require repair.

10. Defendant John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. (hereinafter referred to as "Wieland SC") was a foreign corporation organized and existing under the laws of the State of Georgia and, at all times relevant hereto, was authorized to and did conduct business in the State of South Carolina, County of Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, selling, and constructing the townhomes in a manner for sale to the public. It is currently known as Builder Support Services of the Carolinas, Inc.

11. Defendant John Wieland Homes of Charleston, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia and was authorized to conduct business in this state for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public, and upon information and belief has interests in, uses and possesses real property in South Carolina, and has entered into contracts to be performed in South Carolina. It is currently known as Builder Support Services of the Carolinas, Inc.

12. Defendant John Wieland Homes, Inc., n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc., upon information and belief, was a corporation organized and existing under the laws of the State of South Carolina and was authorized to conduct business in this state, and had a principal place of business in Charleston County Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

13. Defendants John Wieland Homes and Neighborhoods of the Carolinas, Inc., John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston,

Inc., and John Wieland Homes, Inc. (hereinafter referred to as the "Old Wieland Entities") developed, marketed and sold homes in South Carolina and upon information and belief sold all major assets to entities listed below in an attempt to conceal, delay, and frustrate their creditors' attempts to satisfy the Old Wieland Entities' liabilities.

14. Defendant Builder Support Services of the Carolinas, Inc., upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia and is authorized to conduct business in this state. It was formerly known as John Wieland Homes and Neighborhoods, Inc.

15. Defendant Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc. is a foreign corporation organized and existing under the laws of the State of Delaware which describes its business as that of real estate investments and is authorized to conduct business in this state. It is a joint venture formed in November 2012 with the Wieland Defendants where John Wieland Homes and Neighborhoods, Inc. sold to Wheelock Street Capital.

16. Defendant Wheelock Street Real Estate Fund, LP is a limited partnership between Wheelock Street Capital, LLC and other entities organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

17. Defendant Wheelock Street Investment Management, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

18. Defendant RP Falcon Properties, LLC, formerly known as JW Homes, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

19. Defendant Residential Partners, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

20. Defendant Middlesex Holdings, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

21. Defendant WS JWH, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

22. Defendant JWC Phoenix, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

23. Defendant Bridgemill Land, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

24. Defendant Annisquam Development, LLC, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina.

25. Defendant JW Land Investment, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in South Carolina. It is currently known as RP Falcon Land, LLC.

26. Defendant JWC Guilford, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

27. Defendant OOTB, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

28. Defendant Wieland Realty Associates, Inc., also known as JW Realty Associates, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

29. Defendant Wheelock Street Real Estate Fund II, LP, previously identified as Jane Doe 30, is a limited partnership organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

30. Defendant Wheelock Street Real Estate Fund V, LP, previously identified as Jane Doe 31, is a limited partnership organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

31. Defendant WSREF NRT, LLC, previously identified as Jane Doe 32, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

32. Defendant JW Homes, LLC, previously identified as Jane Doe 33, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in the State of South Carolina. It is currently known as RP Falcon Properties, LLC.

33. Defendant JWH RPIV, LLC previously identified as Jane Doe 34, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

34. Defendant RP Falcon Land, LLC f/k/a JW Land Investment, LLC, previously identified as Jane Doe 35, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

35. Defendant Wieland Realty, LLC a/k/a RP Falcon Realty, LLC, previously identified as Jane Doe 36, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

36. Defendant RP Falcon Realty, LLC f/k/a Wieland Realty, LLC previously identified as Jane Doe 37, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

37. Defendant Residential Partners II, LLC previously identified as Jane Doe 38, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

38. Defendant Residential Partners III, LLC previously identified as Jane Doe 39, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

39. Defendant Residential Partners IV, LLC previously identified as Jane Doe 40, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

40. Defendants Builder's Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC, Wheelock Street Real Estate Fund I, II, and V, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners I, II, III, and IV, LLC,

Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., WSREF NRT, LLC, JWH RPIV, LLC, RP Falcon Land, LLC, and Wieland Realty, LLC a/k/a Falcon Realty, LLC (hereinafter referred to as "Wieland Group"), upon information and belief were all organized in such a manner where there is or are:

(a) a substantial relationship between the transferors and transferees of assets;

(b) a retaining of benefits of the transfers for the Old Wieland entities;

(c) secrecy and concealment of terms and negotiations;

(d) circumstances leading to the conclusion that the intent was to delay and hinder creditors from obtaining satisfaction of liabilities;

(e) evidence that the Wieland Group are mere successors in interest and a continuation of the Old Wieland Entities; and

(f) evidence that the entities were operated in such a manner where distinctions between the entities are blurred and should be amalgamated for purposes of judgment.

41. Defendant John Wieland, upon information and belief, is an individual with his primary place of domicile in the State of Georgia. Wieland was the founder, owner, controller, and public face of the above Wieland Entities.

42. Defendant Sue Wieland is the wife of Defendant John Wieland. Upon information and belief, Sue Wieland's place of domicile is in the State of Georgia.

43. Defendants Lindsey Parker and Jack Wieland are the daughter and son of John and Sue Wieland, and Defendant Robert Parker is the son-in-law of John and Sue Wieland. Upon information and belief, Jack Wieland's place of domicile is in the State of Georgia; Robert and Lindsey Parker's place of domicile is in Massachusetts.

44. Defendants John Wieland, Sue Wieland, Jack Wieland, Robert and Lindsey Parker (hereinafter referred to as "Wieland Family") all owned and controlled the Old Wieland Entities. Also, upon information and belief, the Wieland Family own and control the Wieland Group.

45. The Wieland Entities and Wieland Family held, owned, controlled, and/or held additional real estate inventory in additional single purpose entities (SPE) (hereinafter referred to as "Wieland SPE affiliates").

46. The Wieland SPE affiliates were publicly owned and controlled in the names of Sue Wieland and/or Robert Parker.

47. The use of Wieland SPE affiliates and Wieland Group was for the purpose of hindering the creditors of the Old Wieland Entities.

48. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the asset sale to Defendant Residential Partners which, upon information and belief, is owned and controlled by the Wieland Family.

49. Defendant Jorge Medina, individually and d/b/a JMC Construction, LLC a/k/a JMC Construction, Inc. (hereinafter referred to as "JMC"), upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, JMC performed framing, siding, cornice, trim and roofing labor.

50. Upon information and belief, John Does 20-50 and Jane Does 41-50 are individuals or entities organized pursuant to the laws of the State of South Carolina or other states. At all times relevant herein, John Does 20-50 and Jane Does 41-50 were engaged in the business of selling, constructing homes, renovating, supplying products materials and/or services to that end in Charleston, South Carolina.

51. Defendant AC Construction, Inc., previously identified as Jane Doe 1. upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. At all times relevant to this action, AC Construction, Inc., upon information and belief, performed roofing and framing work at the subject property, in Charleston County, South Carolina.

52. Defendant Scott Parker (hereinafter referred to as "Parker") previously identified as John Doe 1, upon information and belief, is a General Contractor licensed in the State of South Carolina. Also, upon information and belief, Parker worked as a neighborhood manager for John Wieland Homes and Neighborhoods.

53. Defendant Builders FirstSource – Southeast Group, LLC previously identified as Jane Doe 2, upon information and belief, is a limited liability company organized and existing under the laws of the State of Delaware, which transacts business in South Carolina and supplied framing and roofing materials.

54. Defendant Muhler LLC a/k/a The Muhler Company, Inc. previously identified as Jane Doe 3, upon information and belief, is a domestic corporation organized and existing under the laws of the State of South Carolina and produced, supplied, and installed windows at One Hamlin Place.

55. YKK (U.S.A.), Inc. previously identified as Jane Doe 4 is a foreign corporation organized and existing under the laws of the State of New York, which transacts business in South Carolina and produced, supplied, and installed windows at One Hamlin Place.

56. Defendant Paul M. Vasquez (hereinafter referred to as "Vasquez") previously identified as John Doe 2, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Vasquez supplied, sold, and installed windows and

doors, together with all associated and related waterproofings and flashings, and other work at the subject property.

57. Defendant Neighborhood Management Associates, Inc. previously identified as Jane Doe 5, upon information and belief, is a corporation organized and existing under the laws of the State of Georgia. Also, upon information and belief, Neighborhood Management Associates served as the property management company for One Hamlin Place.

58. Defendants Billie and Antonio Arias d/b/a Antonio Arias Framing Construction (hereinafter referred to as "Arias") previously identified as John Doe 3, upon information and belief, are contractors licensed in the state of South Carolina. Also, upon information and belief, Arias performed framing and related labor at One Hamlin Place.

59. Defendant Tru-Don Contracting, Inc. (hereinafter referred to as "Tru-Don") previously identified as Jane Doe 6, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Tru-Don performed roofing and related framing work at One Hamlin Place.

60. Defendant Fine Builders, LLC previously identified as Jane Doe 7 (hereinafter referred to as "Fine"), upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Fine performed framing and related labor on townhomes at One Hamlin Place.

61. Defendant Jose Alfredo Sandoval (hereinafter referred to as "Sandoval") previously identified as John Doe 4, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Sandoval performed framing and related labor on townhomes at One Hamlin Place.

62. Defendant Chad Larsen d/b/a Chad Larsen Co. (hereinafter referred to as "Larsen") previously identified as John Doe 5, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Larson performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

63. Defendant Ivan Jose Paiz d/b/a Jose Construction (hereinafter referred to as "Jose") previously identified as John Doe 6, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Jose performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

64. Defendant William B. Angel (hereinafter referred to as "Angel") previously identified as John Doe 7, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Angel performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

65. Defendant East Coast Wall Systems, Inc. (hereinafter referred to as "East Coast") previously identified as Jane Doe 8, upon information and belief, is a corporation organized and existing under the laws of the State of North Carolina. Also, under information and belief, East Coast performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

66. Defendant Tracyinne Construction a/k/a T&C Construction, LLC (hereinafter referred to as "T&C") previously identified as Jane Doe 9, upon information and belief is a limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, T&C performed framing labor on townhomes at One Hamlin Place.

67. Defendants Frankcisco and Andrea Dacosta individually and d/b/a AAA Coastline, Inc. (hereinafter referred to as "AAA") previously identified as John Doe 8 and Jane Does 10-11, respectively, upon information and belief, are licensed contractors and operating and existing as a

corporation under the laws of the State of South Carolina. Also, upon information and belief, AAA performed framing and related labor on townhomes at One Hamlin Place.

68. Defendant Jack R. Clark individually d/b/a Jack Clark Construction LLC (hereinafter referred to as "Clark") previously identified as John Doe 9, upon information and belief is a licensed South Carolina contractor operating and existing as a limited liability company under the laws of the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

69. Defendant Alex Welch (hereinafter referred to as "Welch") previously identified as John Doe 10, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Welch performed framing and related labor on townhomes at One Hamlin Place.

70. Defendant Tracy McCuiston d/b/a Mastercraft Interior and Exterior (hereinafter referred to as "Mastercraft") previously identified as John Doe 11, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mastercraft performed framing and related labor on townhomes at One Hamlin Place.

71. Defendant Universal Forest Products (hereinafter referred to as "Universal") previously identified as Jane Doe 12, upon information and belief, is a corporation organized and existing under the laws of the State of Minnesota. Also, upon information and belief, Universal performed framing and related labor on townhomes at One Hamlin Place.

72. Defendant Gonzalo Guerrero (hereinafter referred to as "Guerrero") previously identified as John Doe 12, upon information and belief, is a contractor licensed in the State of South Carolina. Also, under information and belief, Guerrero performed framing, sheetrock,

fireproofing, siding, trim, and related flashing and caulking labor on townhomes at One Hamlin Place.

73. Defendant A-Marc, Inc. (hereinafter referred to as "A-Marc") previously identified as Jane Doe 13, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, A-Marc performed framing, sheetrock, fireproofing, and all related labor on townhomes at One Hamlin Place.

74. Defendant Emmanuel Kehagis d/b/a Creative Construction (hereinafter referred to as "Creative") previously identified as John Doe 13, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Creative performed framing and related labor on townhomes at One Hamlin Place.

75. Defendant Anthony Kirksey (hereinafter referred to as "Kirksey") previously identified as John Doe 14, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Kirksey performed framing and related labor on townhomes at One Hamlin Place.

76. Defendant Polly S. Clark d/b/a Glenn Clark Construction (hereinafter referred to as "Clark") previously identified as Jane Doe 14, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

77. Defendant Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC (hereinafter referred to as "Mora") previously identified as Jane Doe 15, upon information and belief is a contractor licensed in the State of South Carolina operating and existing as a South

Carolina corporation. Also, upon information and belief, Mora performed roofing, masonry, and related flashing and caulking labor on townhomes at One Hamlin Place.

78. Defendant Daniel L. Rogers d/b/a Dan Rogers Roofing, LLC (hereinafter referred to as "Rogers") previously identified as Jane Doe 16, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Rogers performed roofing and related flashing and caulking labor on townhomes at One Hamlin Place.

79. Defendant William C. Mulhern d/b/a Bill's Painting (hereinafter referred to as "Mulhern") previously identified as Jane Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mulhern performed sheetrock, fireproofing, painting, sealant installation, and related labor on townhomes at One Hamlin Place.

80. Defendant Mark A. McFarland individually and d/b/a In the Wind, Inc. (hereinafter referred to as "In the Wind") previously identified as John Doe 15 and Jane Doe 18, respectively, upon information and belief, is a contractor licensed in the State of South Carolina and operating and existing as a South Carolina corporation. Also, upon information and belief, In the Wind performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

81. Defendant Harbor Master, Inc. previously identified as Jane Doe 19, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Harbor Master, Inc. performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

82. Defendant Chad Hood (hereinafter referred to as "Hood") previously identified as John Doe 16, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Hood performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

83. Defendant Kinco Ltd. a/k/a Kinco Inc. (hereinafter referred to as "Kinco") previously identified as Jane Doe 20, upon information and belief, is a Florida corporation organized and existing under the laws of the State of Florida. Also, under information and belief, Kinco manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

84. Defendant Atrium Companies, Inc. d/b/a Atrium Windows and Doors a/k/a HR Windows previously identified as Jane Doe 21 (hereinafter referred to as "Atrium"), upon information and belief, is a corporation organized and existing under the laws of the State of Delaware. Also, under information and belief, Atrium manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

85. Defendant The Contractor Yard, Inc. (hereinafter referred to as "Contractor Yard") previously identified as Jane Doe 22, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Contractor Yard manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

86. Defendant New Construction Drywall Hanger, LLC (hereinafter referred to as "Drywall Hanger") previously identified as Jane Doe 23, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, under

information and belief, Drywall Hanger performed framing, drywall, sheetrock, fireproofing, and related labor.

87. Defendant Doug Pilcher (hereinafter referred to as "Pilcher") previously identified as John Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Pilcher worked as a builder for John Wieland Homes and Neighborhoods at One Hamlin Place.

88. Defendant Michael Cassidy (hereinafter referred to as "Cassidy") previously identified as John Doe 18, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Cassidy worked as a quality manager for John Wieland Homes and Neighborhoods at One Hamlin Place.

89. Defendant DBC Construction Services, LLC (hereinafter referred to as "DBC") previously identified as Jane Doe 24, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, DBC performed roofing and all related waterproofing and flashing work on townhomes at One Hamlin Place.

90. Defendant Gerardo Rosette Sanchez, doing business as GR Painting (hereinafter referred to as "GR") previously identified as Jane Doe 25, upon information and belief is a contractor licensed to do business in South Carolina. Also, upon information and belief, GR performed exterior painting services and all related waterproofing, caulking, and flashing work on townhomes at One Hamlin Plantation.

91. Defendant Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC previously identified as Jane Doe 26 (hereinafter referred to as "J. Mora"), upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South

Carolina. Also, upon information and belief, J. Mora performed brick masonry and foundation work along with all related waterproofing, caulking, and flashing on townhomes at One Hamlin Place.

92. Defendant Juan Luis Sanchez a/k/a Sanchez Brothers Painting previously identified as Jane Doe 27 (hereinafter identified as "Sanchez Brothers"), upon information and belief, is a contractor licensed to do business in South Carolina. Also, upon information and belief, Sanchez Brothers performed exterior painting services and all related waterproofing, caulking, and flashing work on townhomes at One Hamlin Plantation.

93. Defendant Latitude Construction Services, LLC (hereinafter referred to as "Latitude") previously identified as Jane Doe 28, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, Latitude performed porch and balcony waterproofing along with all related flashing and caulking on townhomes at One Hamlin Place.

94. Defendant Richard Ditullio a/k/a RDT Contracting, LLC (hereinafter referred to as "RDT") previously identified as Jane Doe 29, upon information and belief is a contractor licensed to do business in South Carolina and operates as a South Carolina limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, RDT performed roofing and all related waterproofing, flashing, and caulking labor.

95. Defendant Valencia Medina, individually previously identified as John Doe 19, upon information and belief, is an agent of JMC Construction, LLC a/k/a JMC Construction, Inc. Also, upon information and belief, Valencia Medina by and through JMC performed framing, siding, cornice, trim and roofing labor.

WIELAND TRANSACTIONAL BACKGROUND

96. Defendants negotiated a transfer of substantially all assets owned and/or controlled by the Old Wieland Entities and the Wieland Family to new entities that were jointly owned by Wheelock and the Wieland Family (the Wieland Group). Ultimately, Wheelock and the Wieland Family reaped a windfall by selling the assets to a third party.

97. It is clear that the Defendants employed a sophisticated scheme to first "launder" and then sell the assets of the John Wieland Homebuilding Enterprises. While the discrete steps of the scheme are less clear, Plaintiffs will set out the currently known facts.

(The 2009 Transactions)

98. The siphoning of valuable assets began as early as 2009. Defendant Robert Parker orchestrated a December 30, 2009 transaction by which 128+ acres in the Bridgemill subdivision (Lancaster County, South Carolina) were sold by John Wieland Homes and Neighborhoods of the Carolinas, Inc. to OOTB, a company run by William Mitchell, a one-time member of Wieland's board of directors. The Defendants' intention was for OOTB to hold the land and eventually sell it back to the evolving Wieland entities.

99. OOTB reportedly paid Two-Million Dollars ($2,000,000.00) for the Bridgemill land. A year later, in December of 2010, OOTB sold the 128 acres to Annisquam for One-Dollar ($1.00). Annisquam is controlled by John Wieland's immediate family. Next, Annisquam transferred to JW Homes a portion of the 128+ acres it had purchased for One-Dollar ($1.00). The affidavit of consideration for that transfer valued the property at over Seven-Million Five-Hundred and Fifty-Four Thousand Dollars ($7,554,000.00).

100. In a nutshell, the Annisquam/OOTB transaction involved the first *KNOWN* diversion of assets from John Wieland Homes and Neighborhoods of the Carolinas, Inc. to the Wieland Family personally, with the assets ultimately being re-routed into Wheelock.

101. OOTB and Annisquam were created to facilitate the Wieland Family's scheme to remove assets from the reach of creditors.

(The 2012 Transactions)

102. In the fall of 2012, several new corporate entities were created. Residential Partners was formed, or caused to be formed, by Wheelock. JW Homes was formed, or caused to be formed, by Wheelock and/or Residential Partners.

103. JW Land, JWC Phoenix, Middlesex, JWC Guilford were also created in the fall of 2012.

104. Defendants Robert and Lindsey Parker are the sole members and owners of Middlesex.

105. Middlesex is the majority owner of JWC Phoenix.

106. The balance of JWC Phoenix is owned by Defendant Jack Wieland.

107. JWC Phoenix owns a minority interest in Residential Partners.

108. On or about November 15, 2012, the Old Wieland Entities and the Wieland Family transferred the John Wieland Homebuilding Enterprise to an amalgamation of JW Homes, Residential Partners, Wheelock and others. This transfer included the assets, business, intellectual property, goodwill, management, employees, intellectual property rights contracts, real estate inventory, and substantially all of the ongoing business assets of the Old Wieland Entities and affiliates.

109. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the 2012 Transactions.

110. The 2012 Transactions resulted in a joint venture, or *de facto* merger. They involved the Defendants successfully convincing Bank of America, a major lender to the Wieland Entities, to accept less than it was owed, essentially a short sale.

111. The 2012 Transactions represented the sale of substantially all of the homebuilding assets and related intellectual property of the Old Wieland Entities to a new joint venture, a partnership between the Wieland Family and Wheelock.

112. This new partnership carried forward the John Wieland Homes brand and deployed significant new capital resources to drive growth of one of the industry's most well-known names. Included in the transactions were approximately 300 homes and over 5,000 lots in high quality neighborhoods across the Southeast.

113. Defendant John Wieland served as the new company's chairman, directing strategy and providing leadership, vision and support for the new joint venture.

114. The Wieland Family retained their equity and profit interests and substantial control by swapping indirect interests in the pre-November 15, 2012 John Wieland Homebuilding Enterprise for indirect interests (and disproportionately large profit interests) in the post-November 15, 2012 John Wieland Homebuilding Enterprise.

115. JW Homes was the operating company for the new partnerships after the 2012 Transactions. There was no visible difference for the public to see between Builders Support and Residential Partners. JW Homes advertised, as the purchaser of the John Wieland Homebuilding Enterprise, that the business had 40 years of existence. JW Homes, part of Wheelock, presented itself as the entity responsible for Waverly. JW Homes, as part of Wheelock, took over the home

construction business of the Wieland entity that built Waverly. When Residential Partners/JW Homes bought Builders Supply, nothing about the operation changed.

116. The Defendants functioned as an integrated whole, transferring assets from the Wieland operating entities to newly formed entities at unfairly low prices.

(The Operation of the Enterprise after the 2012 Transactions)

117. After the 2012 Transactions, the John Wieland Homebuilding Enterprise continued unabated, selling approximately 500 residences per year at an average sales price of approximately $450,000.00 per residence, resulting in average annual sales of approximately $22.5 million or better. Upon information and belief, this yielded profits before taxes and interest of approximately $4.0 million per year or more.

118. The operation of the Wieland Homebuilding Enterprise remained virtually unchanged.

119. The new entities, which remained under substantial control by the Wieland Family, advertised and promoted their forty years of homebuilding experience, even though all the new entities were created in the fall of 2012. On its website, JW Homes claims to have been founded in 1970.

120. JW Homes was in fact a continuation of, and a successor to, the entities that operated the John Wieland Homebuilding Enterprise prior to November 15, 2012:

a. JW Homes operated the John Wieland Homebuilding Enterprise under the "John Wieland" tradename;

b. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same employees;

c. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same management personnel;

d. JW Homes continued Wieland Homebuilding Enterprise with one or more

of the same Board members and/or executive personnel;

e. JW Homes occupied the same corporate office as the Wieland Entities did prior to the 2012 Transactions;

f. JW Homes maintained the same telephone numbers as the Wieland did prior to the 2012 Transactions;

g. JW Homes maintained the same internet and email domain ("jwhomes.com") as the Wieland did prior to the 2012 Transactions;

h. JW Homes continued to market itself utilizing the reputation, awards, experience, and history of Wieland and the Wieland Entities;

i. JW Homes continued to use John Wieland's mantra "enduring core values, known as EPIC: Excellence, Passion, Presentation, Integrity, Completeness".

j. JW Homes continued the John Wieland Homebuilding Enterprise in the same locations in which Wieland previously operated;

k. JW Homes possessed the corporate records of the Old Wieland entities; and

l. Residential Partners and JW Homes expressly assumed most of the warranty obligations of the Wieland Entities.

121. The Wieland Family continued to avail itself of the benefits of the Wieland Homebuilding Enterprise while concealing its continued participation from the public, Plaintiffs included.

122. The Wieland Entities were subsumed by JW Homes, Wheelock, and Residential Partners at the time of the 2012 Transactions.

123. Upon information and belief, The Old Wieland Entities have defended over one hundred (100) lawsuits claiming defective construction in Charleston County and many more elsewhere.

124. Defendants knew of the Wieland Entities' long history of defective construction.

(Effect on One Hamlin Place Owners)

125. Defendants knowingly and willfully stripped the Wieland Entities of assets and left Wieland with no assets available to compensate their prior clients for defectively constructed homes and/or to rectify the defects.

126. The Wieland-Wheelock interests diverted the key assets out of the Wieland operating companies, including their goodwill, leaving behind judgment-proof corporate shells to be "responsible" for Wieland's defective construction.

127. These corporate entity manipulations, calculated to divert value to Wieland's owners while leaving behind judgment-proof entities, occurred at a time when the Defendants were acutely aware that their construction activities in Charleston were grossly deficient.

128. Plaintiffs have been deprived of recourse and repair monies for their defective homes.

129. Plaintiffs have further had to endure substandard and potentially dangerous living conditions, delays in repairs, and loss of the value of their equity in their homes.

130. For most class members, these townhomes constitute their most significant asset, currently and in retirement, and the impairment of this asset and lack of repair funds causes the Plaintiff class financial stress.

131. Plaintiffs are incurring increased expenses for temporary repairs while the permanent resolution is delayed by Defendants' activities.

132. The Association's reserves are being depleted by the foregoing, and Plaintiff class members are facing higher regime fees and/or future assessments as a result.

FACTUAL BACKGROUND

133. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if fully set forth herein verbatim.

134. Plaintiffs are informed and believe that the Developer Defendants engaged contractors to construct the Project including 105 properties, and related facilities and amenities, collectively known as One Hamlin Place Townhomes, which were thereafter substantially completed, and contained various buildings. The Developer Defendants, by and through various instrumentalities and alter-egos and other Defendants were the original developers of the Project and/or are liable for the actions of the original Developer of the project.

135. The Developer Defendants created and controlled numerous and various entities including, but not limited to, the John Wieland Homes and Neighborhoods of South Carolina, Inc., Builder Support Services of the Carolinas, and Wieland Defendants set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and leasing of the townhomes that were known as One Hamlin Place Townhomes. The Developer Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities were merely a facade for the operations of the Developer Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between the Developer Defendants and the sham entities, shareholders, officers, agents, partners, employees, assets, and each of them.

136. By way of example, the Wieland Defendants included entities which were created to perform single purpose functions in order to effectuate the sole will of the Developer Defendants in purchasing, developing, leasing, and/or selling the homes. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, the Developer Defendants and the Individual Developer Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

137. The sham entities established by the Developer Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of the Developer Defendants, the Developer Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or the Developer Defendants directly contracted for the sham entities in the name of the Developer Defendants.

138. The Developer Defendants directed and oversaw those listed as Defendants herein and contractors including the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

139. The Developer Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

140. There would exist a broad element of injustice and fundamental unfairness of the acts of the Developer Defendants, and each of them individually, were not regarded as the acts of one another.

141. The Defendants began the process of constructing the townhomes by engaging and directing the actions of the various contractors and/or subcontractors named as Defendants herein, and participated in the negligent, deficient, and shoddy workmanship which ignored and/or covered up design and construction defects then in existence and, thereafter, placed the units into the stream of commerce for sale, which they did sell to the general public and, in particular, to the current owners who are members of the Association.

142. The Developer Defendants, by and through their instrumentalities and alter-ego entities, controlled and operated the Association and its Board of Directors prior to turning over control of the One Hamlin Association. During this period, the Developer Defendants attempted to carry out construction prior to, during and after the time they offered and sold said townhome units. This work was attempted to be performed by contractors engaged by the Developer Defendants for the purpose of expediting the sales process and was calculated for the purpose of, or through careless, reckless, negligent and grossly negligent conduct by the Developer Defendants, resulting in the concealing, fabricating, patching, hiding, and/or cloaking of the deficiencies and damage known, both actually and constructively, to the Developer Defendants and/or their affiliates, subservient entities, agents, and assigns.

143. At the time the units were offered for sale and placed into the stream of commerce by the Developer Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of the Developer Defendants.

144. The Developer Defendants and the Contractor Defendants, and each and every other above-captioned Defendant knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

145. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

146. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

147. The Plaintiffs suffered damages when the Developer Defendants put these units into the stream of commerce and continue to be damaged through the date of this filing.

148. The Developer Defendants failed to make a sufficient inquiry into the conditions of the Project in order to establish adequate financial reserves for maintenance and repair of the Project, and instead provided inaccurate and misleading information to third-parties in the research and establishment of the reserve figures, and thereby provided inaccurate and misleading reserve requirements and related information to the general public, prospective purchasers, and to the

Plaintiffs, both before and after tendering control of the Association and the common elements to the homeowners, all resulting in damages to the Plaintiffs and in violation of South Carolina law, the Master Deed, and the By-laws.

149. The Developer Defendants controlled and managed the Association and its Board of Directors through the use of its subservient entities prior to the tender of the control over the Association to the unit owners; and the Developer Defendants negligently failed to provide sufficient and reasonable information and resources for the proper management and maintenance of the Project; and in fact negligently provided insufficient, inaccurate, and misleading information and prevented the use of financial and other resources required for the proper management and maintenance of the Project, all of which resulted in continued and exacerbated damages to the Project and suffered by the Plaintiffs.

150. The Developer Defendants were engaged in a joint venture, partnership, or other legal or de facto relationship with each other.

151. The Developer Defendants caused, directed, participated in, or acted in willful, reckless, heedless, negligent and grossly negligent disregard of their collective and respective acts and omissions in the planning, development, design, construction, management and sale of the units in the Project, all as more fully described herein.

152. The Developer Defendants represented to the public over the internet and through various publications and other media that they, by and through their various affiliates, entities, venturers, and agents referenced herein, were qualified, experienced, and would in fact be directing, managing, and otherwise facilitating the construction and selling of the units, and these representations were relied upon by the Plaintiffs.

153. Prior to and until transferring control of the One Hamlin Association to the unit owners and a newly elected Board of Directors comprised of unit owners, the Developer Defendants, through their subservient and affiliated entities, employees, and agents, had a duty to serve as Board members and to conduct the business of the One Hamlin Association, had authority and control over, and in fact controlled and directed the One Hamlin Association Board of Directors and dictated all of the Board's activities.

154. In conjunction therewith, the Developer Defendants in their capacity as Board members and otherwise, in a negligent manner, carelessly, willfully, wantonly, and with reckless disregard for the rights of the Plaintiffs, participated in, acquiesced in and caused the wrongful acts and omissions described herein.

155. These collective and respective wrongful acts and omissions of the Developer Defendants and such other Defendants as set forth in the causes of action below, represent unfair trade practices and have resulted in substantial deterioration and/or failure of structures and building systems, building deficiencies, actual, incidental, special and consequential damages and loss of use. Remedying the above wrongful acts will result in actual, incidental, consequential, and special damages including loss of use to the Plaintiffs and its members, and entitle Plaintiffs and its members to punitive damages and attorney's fees. Further, these wrongful acts and omissions have directly and proximately caused substantial diminution in value, both pre- and post-repair.

156. The acts and omissions of the Defendants were contrary to the duties they owed, individually and collectively, to the Plaintiffs and actually caused damages to the Plaintiffs including, but not limited to, damages which did not result from the acts and omissions of other defendants and including, but not limited to, damages other than damages which resulted in physical injury or damage to tangible real and personal property in connection with this Project.

157. One Hamlin Place Townhomes is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina and, upon information and belief, was owned, developed, marketed and constructed by the Defendants.

158. Upon assuming the roles as stated above, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

159. Furthermore, in assuming the roles stated above, the Defendants undertook to make certain that this Community was developed in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

160. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

161. This Court has jurisdiction over the parties and subject matter hereto.

162. The construction of One Hamlin Place Townhomes was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin Place Townhomes according to the normal standards of good and workmanlike practice in the construction field.

163. Construction defects in the One Hamlin Place Townhomes have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water and moisture intrusion damage resulting from defects;

(d) Improper flashing installation;

(e) Improper window installation; and

(f) Improper building envelope

164. As a direct and proximate result and consequence of the faulty construction by the Defendants of Plaintiff's homes, causing major problems and defects thereto, the Plaintiff have and will continue to spend substantial sums of money for the repairs and reconstruction of major portions of One Hamlin Place Townhomes and will be subject to consequential damages.

165. Defendants negotiated a transfer of substantially all assets owned and/or controlled by the Wieland Entities and the Wieland family

FOR A FIRST CAUSE OF ACTION
(Violation of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, *et seq.*)

166. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

167. Plaintiff and the Defendants are "persons" within the meaning of S.C. Code § 39-5-10(a).

168. The Defendants, by developing, marketing and constructing the subject Residences, were engaged in commerce within the meaning of S.C. Code § 39-5-10(b).

169. The Defendants' actions, described hereinabove, constitute unfair and deceptive practices within the meaning of S.C. Code § 39-5-20(a).

170. The Defendants' acts are capable of repetition, and, upon information and belief, have been repeated.

171. The Defendants' conduct affects the public interest of South Carolina.

172. The Defendants knew, or reasonably should have known, that their conduct violated the Unfair Trade Practices Act.

173. As a direct foreseeable and proximate result of the Defendants' unfair and deceptive practices, Plaintiff has suffered an ascertainable loss of money and property.

174. Plaintiff is entitled to recover its actual damages, which amount should be trebled, together with interest and attorney's fees.

FOR A SECOND CAUSE OF ACTION
(Breach of Implied Warranty)

175. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

176. The design, construction, development and sale of the units by these Defendants contained as a matter of law implied warranties of good faith and fair dealing, fitness for use merchantability, habitability, and workmanship with respect to construction, which warranties were not effectively disclaimed under South Carolina law.

177. The Developer Defendants, whether named or unnamed on the Deeds of Transfer, through their acts and/or omissions, have breached the aforesaid implied warranties, which directly, actually, and proximately caused and resulted in damage which the Plaintiff has suffered and continues to suffer in an amount to be determined by the trier of fact.

178. These Defendants are therefore liable to the Plaintiff for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A THIRD CAUSE OF ACTION
(Breach of implied Warranty of Fitness of Habitability)

179. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

180. That the Defendants impliedly warranted as a matter of law that the subject Residences which they built were habitable and fit for their intended uses.

181. That this implied warranty was breached by the Defendants and the work was performed in a manner below ordinary workmanship and the subject Residences were neither habitable nor fit for their intended use causing damage to Plaintiff.

FOR A FOURTH CAUSE OF ACTION
(Breach of Implied Warranty of Fitness for Particular Purpose)

182. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

183. The Defendants had the duty to develop, market and construct the subject Residences according to industry standards and in a good and workmanlike manner, and an implied warranty of fitness attached to the sales of these homes.

184. At the time of the sale of the subject Residences to the Plaintiff, the Defendants had reason to know if any or all parts of the construction of the subject residences were not completed according to industry standards and in a good workmanship manner.

185. The Defendants, at the time of the sale of the subject Residences to the Plaintiff, had reason to know that the Plaintiff was relying on the skill and/or judgment of the Defendants to properly construct the homes and adjacent facilities according to industry standards and in a good and workmanlike manner. Plaintiff, in fact, relied on the Defendants' skill and judgment.

186. The Defendants did not properly construct the subject homes and facilities according to industry standards and in a good and workmanlike manner, causing major defects to One Hamlin Place Townhomes.

187. As a result of the Defendants' breach of its implied warranties, Plaintiff has suffered physical damages.

FOR A FIFTH CAUSE OF ACTION
(Breach of Implied Warranties as to the Project's Development and Construction)

188. Plaintiff repeats and re-alleges each and every allegation of this Complaint as if fully set forth herein verbatim.

189. These Defendants engaged in conduct during the period of development and construction of the Project which gave rise to duties and implied warranties to the public including, but not limited to, tenants, purchasers and other users of the Project, in that by their conduct these Defendants placed the Project, which constitutes defective, deleterious, and dangerous property, into the stream of commerce.

190. The placement of the Project into the stream of commerce by these Defendants, contained as a matter of law implied warranties of fitness, merchantability, workmanship and habitability, which warranties were not effectively disclaimed pursuant to South Carolina law.

191. As a direct and proximate result of the breaches of the above-described implied warranties by these Defendants, their affiliates, associates, sham entities, and/or joint venturers, whether named or unnamed on any documents transferring interest in the Project, the Plaintiff has suffered and will continue to suffer damages, injuries and other losses.

192. These Defendants are therefore liable to the Plaintiff for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in

any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SIXTH CAUSE OF ACTION
(Negligence, Professional Negligence, and Gross Negligence)

193. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

194. Defendants, and each of them, owed a duty to Plaintiff to act in a manner compliant with the reasonable standard of care, good faith, and fair dealing recognized under South Carolina law, and Defendants violated this duty to the Plaintiff and were negligent, professionally negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars:

a) in failing to properly design, construct, develop and repair the townhomes;

b) in failing to comply with the applicable Building Codes of the County of Charleston, the City of Mount Pleasant and the State of South Carolina;

c) in failing to comply with the applicable Fire and Safety Codes of the County and of Charleston, the City of Mount Pleasant and the State of South Carolina;

d) in failing to properly design and construct the structural elements and the foundation and other elements of the Project to permit the existence of an adequate and sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

e) e) in failing to establish and maintain a sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

f) in failing to properly supervise the project developer entities and individuals, project architects and engineers, as well as contractors, subcontractors, suppliers and/or agents or employees of any of them in connection with the planning, development, design and construction of the townhomes offered for sale to the public;

g) in manufacturing, fabricating, preparing for the incorporation into a residential building, reviewing, approving, procuring, and incorporating into the construction of this project such items which were defective, deficient, inferior, inadequate, unsafe, dangerous, inappropriate for the use intended, noncompliant with approved design or design intent, non-compliant with applicable codes and standards in the industry, and otherwise improper for use in the project including, but not limited to, HVAC systems, mechanical systems, plumbing systems, drainage systems, and sewer line systems without appropriate clean-out piping and/or other issues; electrical systems and equipment, interior and exterior drywall and other substrate and sheathing material, windows, insulation, roofing, waterproofing systems, and other building materials and supplies, finishes, and other items relating to the construction and ultimate use of this residential project;

h) in designing, constructing, marketing, selling, units and/or property with defective windows;

i) in designing, constructing, marketing, selling, units and/or properly with inadequate flashing;

j) in designing, constructing, marketing, selling, units and/or property with inadequate roofs;

k) in designing, constructing, marketing, selling, units and/or property with inadequate water barriers;

l) in designing, constructing, marketing, selling, units and/or property with without weather proof building envelopes and exteriors;

m) in designing, constructing, marketing, selling, units and/or property which were defective, deficient, inadequate, unsafe, dangerous, or otherwise non-compliant with codes and standards;

n) in placing defective and inferior construction into the stream of commerce;

o) in placing defective and inferior manufactured systems, equipment, building materials and other products into the stream of commerce.

p) in failing to permit and facilitate a proper evaluation of the condition of the Project prior to and during the process of offering units and other property for the use and sale to the general public and, further, to obstruct and/or hinder efforts to conduct a proper evaluation of the Project by intended purchasers or users;

q) in misrepresenting the condition of the units, common elements, garages and other property to prospective and actual purchasers and other users, and in making representations in negligent and/or intentional disregard of whether these representations were false or inaccurate;

r) in failing to undertake sufficient actions to develop a plan for repairs and otherwise failing to make adequate repairs to conditions at the project which were unsafe, dangerous, or otherwise not in compliance with applicable building codes or other authorities or standards of care;

s) in negligently and/or intentionally covering up deficiencies prior to construction of the units and other property for sale or use by the general public;

t) in failing to determine accurate information required, failing to disclose the absence of such information, as well as negligently and/or intentionally providing misleading and inaccurate information regarding the proper level of financial capitalization and reserve funding required for the operations, maintenance, and repairs required by the One Hamlin Association for the Project and individual unit owners;

u) in tendering common elements and other property to Plaintiff in a deficient condition;

v) in failing to act as reasonable persons would in circumstances then and there prevailing and in such other failures as will be shown during discovery and at trial.

195. Said failures above-described, as well as the Defendants' gross negligence, willfulness, and reckless disregard for the rights of Plaintiff and others, have actually and proximately caused damages to Plaintiff, and the Defendants are liable to the Plaintiff in an amount of actual, incidental, consequential, special, and punitive damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Misrepresentation)

196. Plaintiff repeats and re-alleges each and every allegation of this Complaint as if fully set forth herein verbatim.

197. These reports and representations were actually published and presented for information to the general public by these Defendants, and these representations were actually received by, and relied upon by, the prospective and actual purchasers of the townhomes at the Project.

198. At the time of the sale of the homes and the turnover of control of the One Hamlin Place Townhome Association from the Developer Defendants to the unit owners, Plaintiff was not aware of the falsity of the representations or the lack of investigation and lack of candor by these Defendants in connection with the reports.

199. Plaintiff subsequently determined that the representations made by these Defendants were false and that these Defendants failed to exercise due care, not only in failing to discover defects in the project, but also in failing to communicate information about the true condition of the Project. As a result of its justifiable reliance on the representations, reports, and other documents presented by these Defendants, Plaintiff and its members have assumed control over the Project and/or purchased units, and have thereby suffered pecuniary losses in an amount to be determined by the trier of fact.

200. As a direct and proximate result of its justifiable reliance on numerous false representations made by these Defendants in connection with the Project, Plaintiff has suffered, and these Defendants are liable to the Plaintiff for actual, incidental, consequential, and special damages, all in an amount to be determined by the trier of fact and any attempts in any contractual

agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN EIGHTH CAUSE OF ACTION
(Breach of Contract)

201. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

202. That the Defendants entered into a contract with the homeowners and/or predecessors-in-title, whereby the Defendants were to construct the subject homes and facilities to industry standards and in a good workmanlike proper manner.

203. The Defendants did not honor their obligations under the agreement with the Plaintiff and/or its predecessors-in-title in that they failed to construct subject Residences according to industry standards and in a good, workmanlike proper manner causing major defects to the homes.

204. That the Defendants are in breach of the parties' contracts.

205. That as a result of the Defendants' breach of contract, the Plaintiff has suffered and will continue to suffer and are entitled to recover monetary damages caused by the defective construction by the Defendants and for loss of use and diminution in value of the subject Residences.

FOR A NINTH CAUSE OF ACTION
(Breach of Fiduciary Duty as to the Developer/Owner Defendant)

206. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

207. The Developer/Owner Defendant had a fiduciary duty and duty of loyalty and good faith dealing to transfer One Hamlin Place Townhomes to the control of the Plaintiff in a state of

good repair. Defendants, having transferred elements with the defects and deficiencies set forth above, in the alternative is required to provide the Plaintiff with the funds necessary to bring the elements up to standard of reasonably good repair and condition.

208. Defendants breached their fiduciary duty and duty of loyalty and good faith dealing by transferring the elements in a substandard and deficient condition without the funds necessary to bring them up to standards of good repair and condition.

209. As a direct and proximate result and consequence of the Defendants' actions, Plaintiff has suffered damages in the amount equal to the extraordinary repair, maintenance and reconstruction costs required and expended, and to be required and expended, over the expected life of the buildings and other improvements, loss of use and diminution in value.

FOR A TENTH CAUSE OF ACTION
(Alter Ego Liability and Piercing the Corporate Veil)

210. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

211. The Developer Defendants, by and through various instrumentalities and alter-egos and each other were the original developers of the Project, and the Defendants combined and joined together through various instrumentalities and alter egos to facilitate to process of building the townhome units in or about 2006-2007.

212. The Defendants created and controlled numerous and various entities including, but not limited to, the Wieland Defendants and Builder Support Services, Inc. set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and sale of the townhomes that are known as the One Hamlin Place Townhomes. The Defendants created and controlled numerous and various entities including, but not limited to, Wieland, for the sole

purpose of the building and sale of the townhomes at the Project. These Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of these Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between these Defendants and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

213. These Defendants created entities which were created to perform single purpose functions in order to effectuate the sole will of these Defendants in purchasing, developing, leasing, and/or selling the units. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, these Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

214. These Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

215. The sham entities established by these Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of

the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of these Defendants, these Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or these Defendants directly contracted for the sham entities in the name of these Defendants.

216. These Defendants directed and oversaw the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

217. There would exist a broad element of injustice and fundamental unfairness if the acts of these Defendants, and each of them individually, were not regarded as the acts of one another.

218. At the time the units were offered for sale and placed into the stream of commerce by these Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiff, all as a direct and proximate result of an investigation initiated by Plaintiff, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of these Defendants.

219. All Defendants knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiff.

220. These latent building defects have, unbeknownst to Plaintiff, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

221. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

222. The Plaintiff suffered damages and injuries when these Defendants put these units into the stream of commerce and continue to be damaged and injured through the date of this filing.

223. As a direct and proximate result thereof, these Defendants are liable to the Plaintiff for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN ELEVENTH CAUSE OF ACTION
(Violation of the Residential Property Condition Disclosure Act)

224. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

225. These Defendants were engaged in a joint venture, partnership, or some other form of business venture or association including, but not limited to, the formation of a Limited Liability Company, in connection with the development and construction of the One Hamlin Place Townhomes.

226. The Developer Defendants did so place the townhome units into the stream of commerce for sale to the general public and to the members of the One Hamlin Association in particular.

227. At all times relevant to this cause of action the Developer Defendants were "owners" as that term is used within S.C. Code Ann. § 27-50-10 *et seq.*, referred to as the "South

Carolina Residential Property Condition Disclosure Act" (referred to in the remainder of this cause of action as the "Act").

228. The Developer Defendants failed to furnish to the purchasers of the townhome units a written disclosure statement in conformity and compliance with S.C. Code Ann. § 27-50-40.

229. These Defendants failed to inform the sellers of the units of their obligations under the Act and had reasonable cause to suspect that the information, if any, supplied by the sellers to the individual purchasers was inherently false, incomplete, and misleading.

230. Upon information and belief, notwithstanding the above-described failures of these Defendants, and each of them, knowingly violated and/or failed to perform the duties described in§ 27-50-40.

231. The nature of the defects that were undisclosed in violation of§ 27-50-40, prevented and/or limited any inspection performed by the Plaintiff to uncover or discover the said defects.

232. As a direct and proximate result of these Defendants' violations of their respective and collective duty to furnish written disclosure to the purchasers as required by§ 27-50-10, *et seq.,* the Plaintiff has suffered, and these Defendants are liable to the Plaintiff for, actual, incidental, consequential, and special damages, along with costs, interest, and attorney's fees pursuant to the remedies set forth in the Act, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A TWELFTH CAUSE OF ACTION
(Strict Liability)

233. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

234. Each and every townhome unit sold by these Defendants was a product within the meaning of S.C. Code Section 15-73-10, *et seq.*

235. These Defendants are and were engaged in the business of selling the aforesaid townhome units which are within the meaning of S.C. Code Section 15-73-10, *et seq.*

236. The aforesaid townhome units/products were expected to, and in fact did, reach the Plaintiff herein as a User or Consumer without substantial change in condition in which it was sold within the meaning of Section B of S.C. Code 15-73-10, *et seq.*

237. The townhome units/products which were sold by these Defendants were at the time of sale in a defective condition, unreasonably dangerous to Plaintiff as a User or Consumer or to the Plaintiff's property and, as such, these Defendants are strictly liable to Plaintiff as a User or Consumer herein for the physical harm and damage proximately caused thereby.

238. As a direct and proximate result thereof, Plaintiff as a User or Consumer have suffered, and these Defendants are liable to the Plaintiff for, actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A THIRTEENTH CAUSE OF ACTION
(Individual Liability as to the Developer Defendants)

239. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

240. As a direct and proximate cause and result of the acts and omissions of these Defendants as aforesaid, Plaintiff has been damaged, and these Defendants are liable to the Plaintiff for actual, incidental, consequential, and special damages in an amount to be determined

by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A FOURTEENTH CAUSE OF ACTION

(Amalgamation Liability as to John Wieland Homes and Neighborhoods of the Carolinas, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; John Wieland Homes of Charleston, Inc.; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; and Residential Partners IV, LLC)

241. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein.

242. These Defendants have operated in such a manner that the distinctions between the entities and their activities have become blurred.

243. There is excessive interrelationship between the entities and their activities; a sharing of management and employees and other public assets; and an absence of delineation between the entities such that the public is unable to tell where one entity's activities stop and the next entity's activities start.

244. Treating these Defendants as separate entities will perpetuate an injustice on Plaintiffs and allow Defendants to unjustly enrich themselves by untoward means.

245. The above listed entities should be amalgamated for purposes of any judgment in this action.

WHEREFORE, the Plaintiff prays that this Court issue an Order granting judgment for the Plaintiff against the Defendants, jointly and severally, for the following:

(a) for actual damages in an amount to be proven at trial;

(b) for trebled damages under S.C. Code § 39-5-10, et seq.;

(c) for punitive damages;

(d) for prejudgment and post judgment interest on Plaintiff's damages;

(e) for attorney's fees and costs; and

(f) for such other and further relief as this Court may deem just and proper.

[Signature page to follow]

Respectfully submitted,

HAYES LAW FIRM, LLC

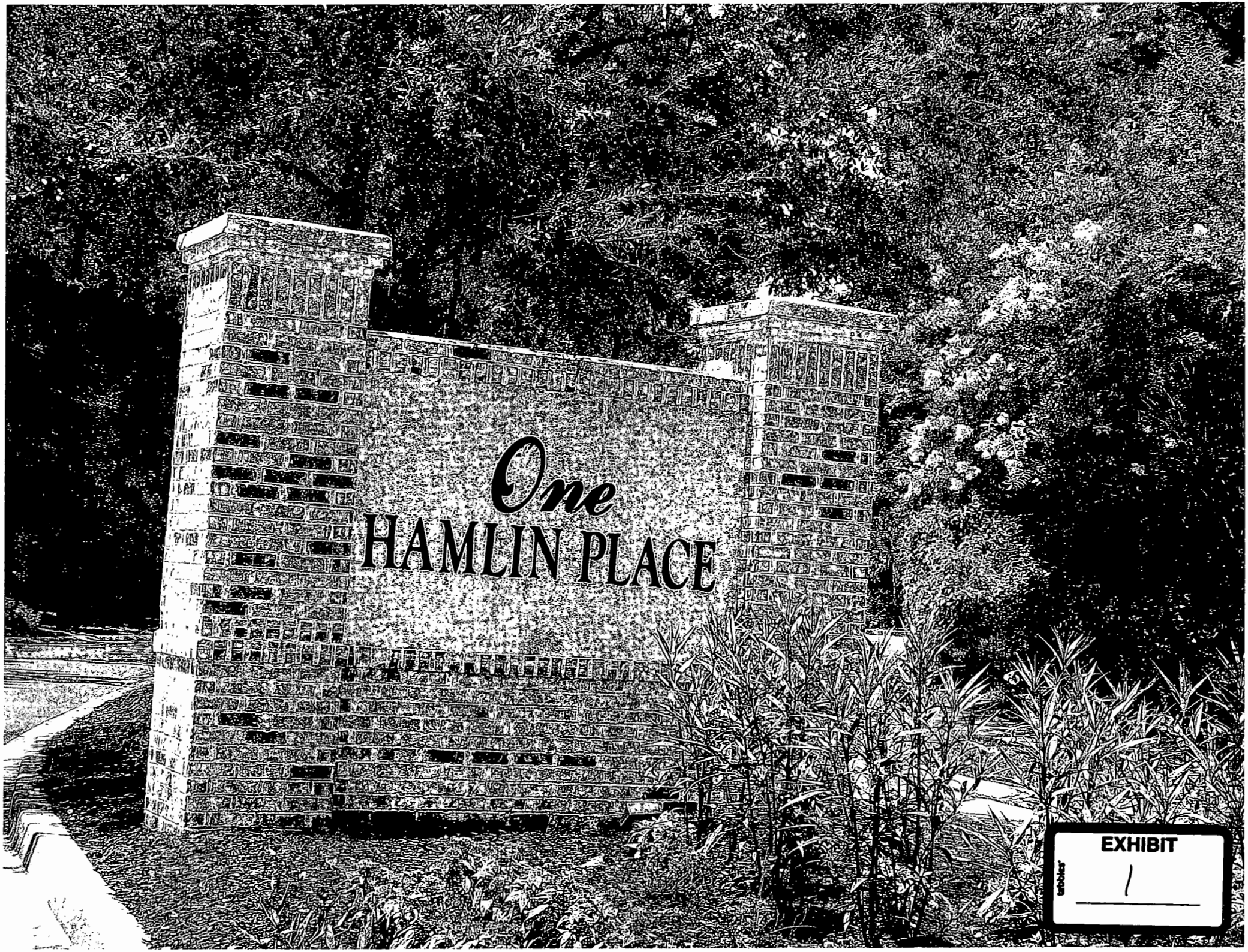
John C. Hayes, IV, Esquire
Nina E. Meola, Esquire
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180 Meeting Street, Suite 330
Charleston, SC 29401
Phone: (843) 805-7003
jhayes@hayeslaw.org
nmeola@hayeslaw.org

AND

I. Keith McCarty, Esquire
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1212 Wappoo Road
Charleston, SC 29407
Phone: (843) 793-1272
ikeithmccarty@gmail.com

ATTORNEYS FOR PLAINTIFF

January 16, 2018
Charleston, South Carolina


One
HAMLIN PLACE
EXHIBIT
1

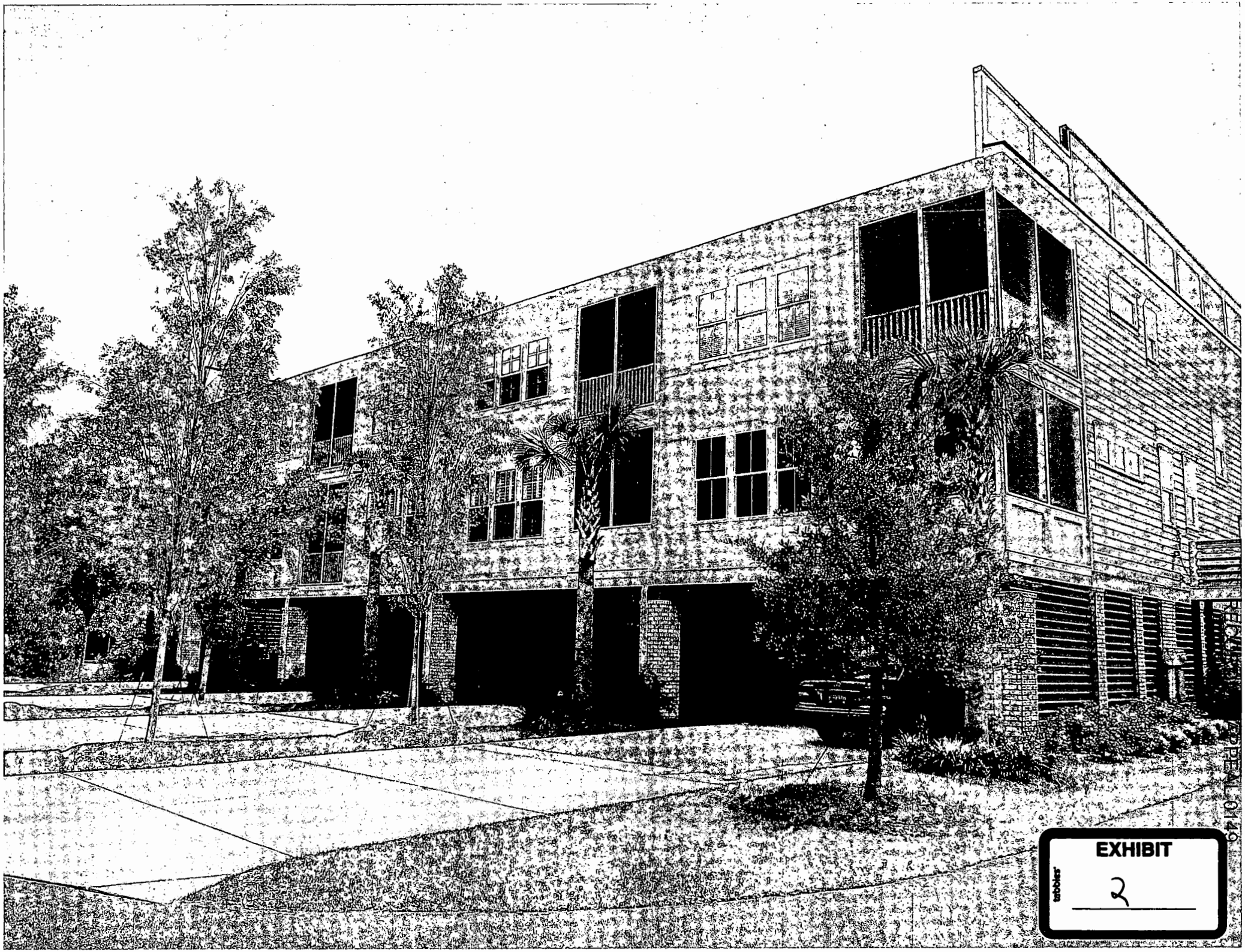


EXHIBIT
tabbies
2

RECEIVED APPEAL 0149



EXHIBIT
3



EXHIBIT
4

EXHIBIT
5
Midland
HBORHO

EXHIBIT
6
CT#11 Zone Pond Dam

EXHIBIT
7

EXHIBIT 8

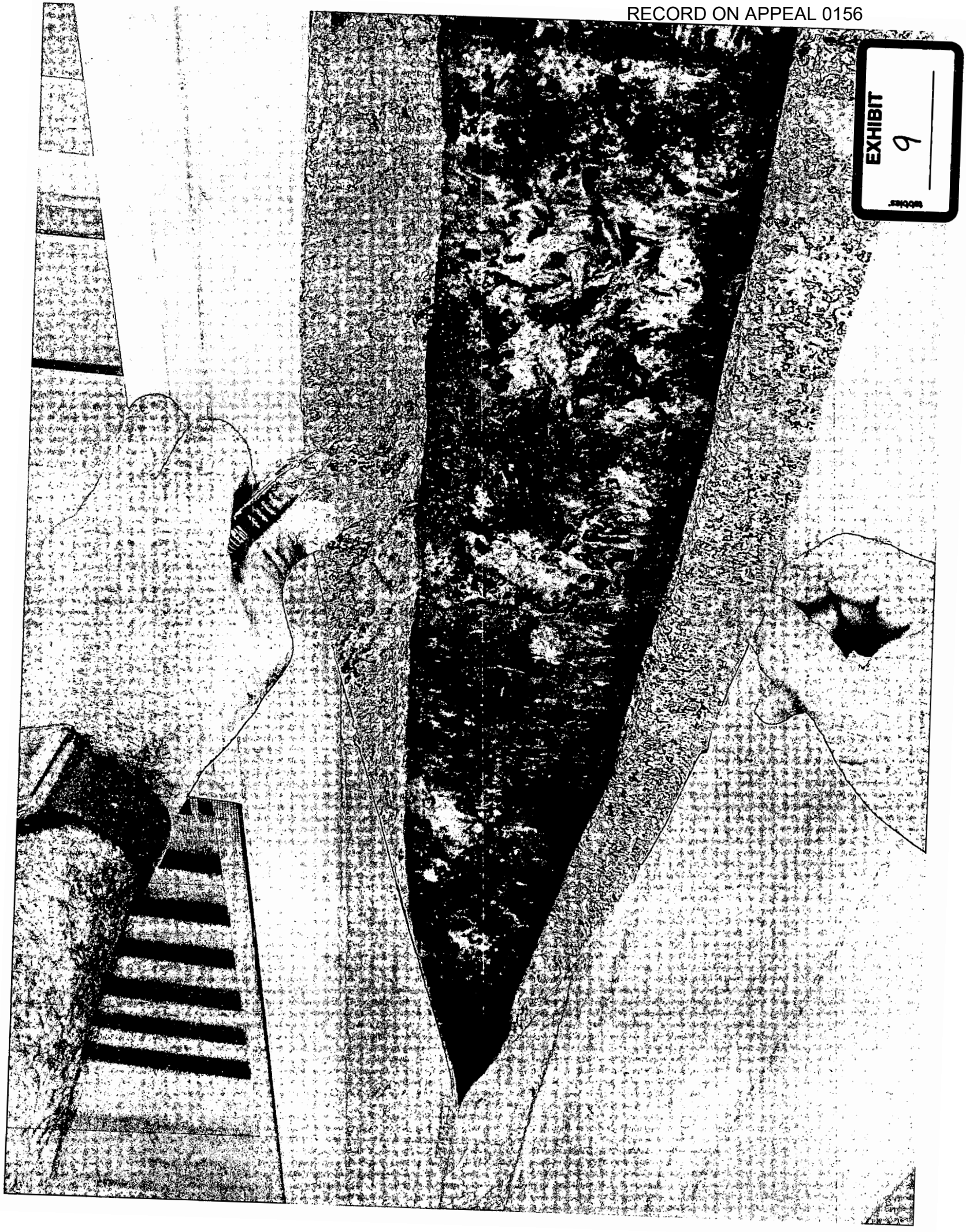

EXHIBIT
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EXHIBIT
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EXHIBIT 11

EXHIBIT
12

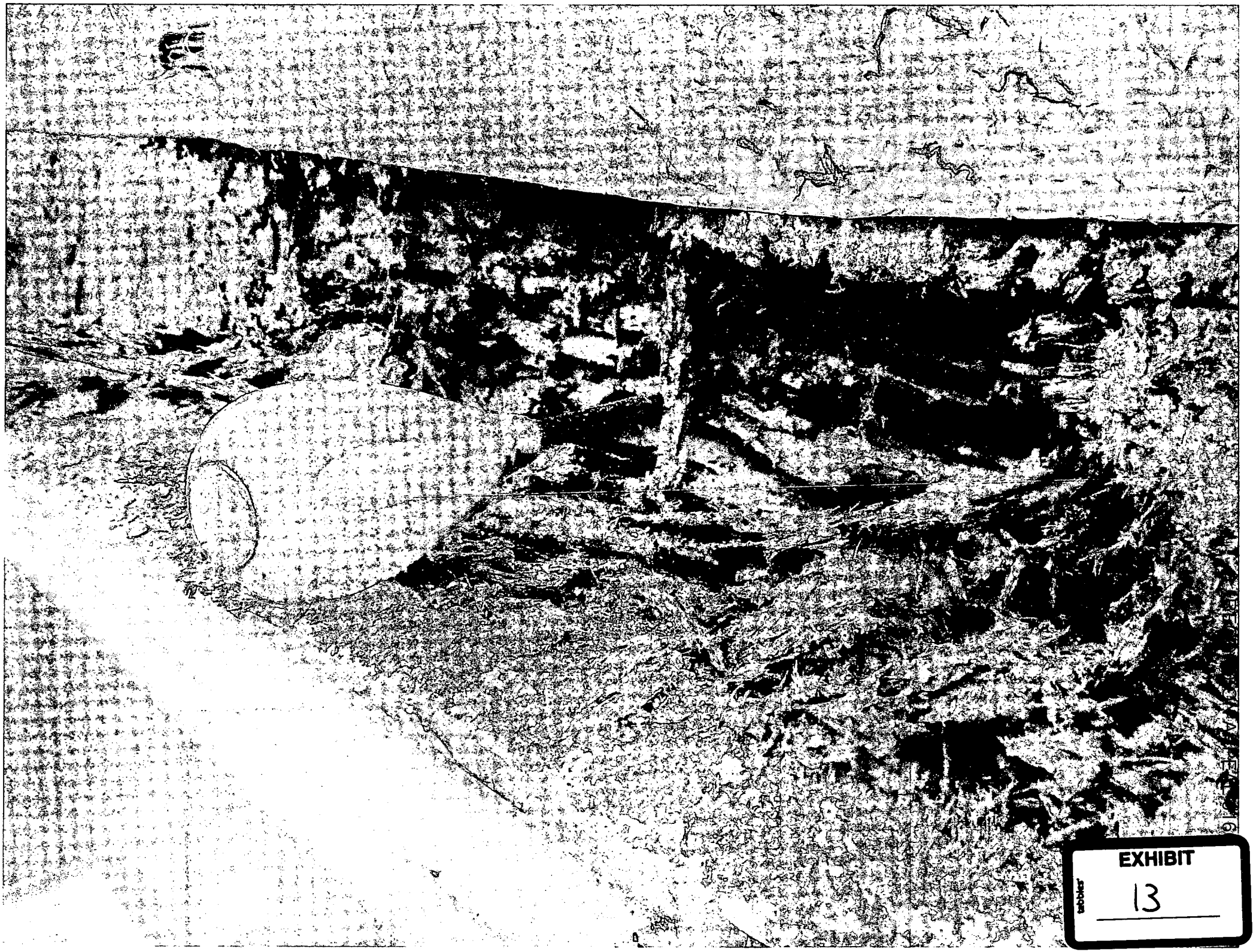


EXHIBIT
13

EXHIBIT 14

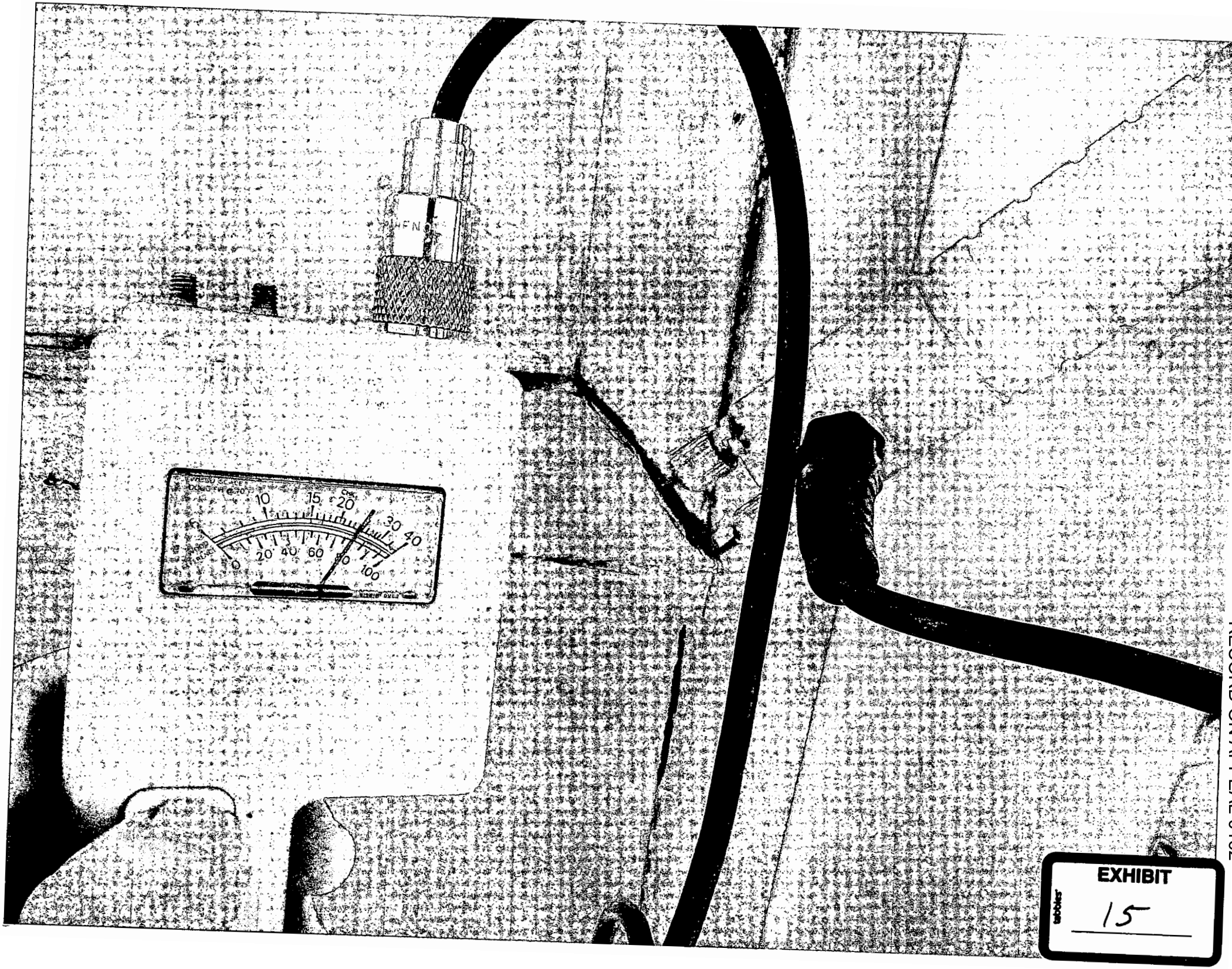


EXHIBIT
15

RECORD ON APPEAL 0162



RECORD ON APPEAL 0163

HAYES LAW FIRM, LLC

John C. Hayes, IV
180 Meeting Street – Suite 330
Charleston, South Carolina 29401
Tel: (843) 805-7003
Fax: (843) 573-7388
Email: jhayes@hayeslaw.org

January 16, 2018

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401-2258

Re: *One Hamlin Place Townhome Association, Inc. v. John Wieland Homes and Neighborhoods of the Carolinas, Inc., et al.*
Case No.: 2017-CP-10-5245
HLF File No.: 120.001

Dear Ms. Armstrong:

Enclosed herewith please find the original and one (1) copy of the *Amended Summons and Amended Complaint* with regard to the above-referenced matter. Please file the original and return the clocked-in copy to us.

Thank you for your attention to this matter. Should you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,

Jena Lingle
Paralegal to John C. Hayes, IV

/jml
Enclosures

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO: 2017-CP-10-5245
	)	
One Hamlin Place Townhome Association, Inc.,	)	
	)	
Plaintiff,	)	**SECOND AMENDED COMPLAINT**
	)	**(Jury Trial Demanded)**
vs.	)	
	)	
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (45-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource – Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK	)	

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JULIE J. ARMSTRONG
CLERK OF COURT
BY

(U.S.A), Inc.; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Gonzalo Guerrero; A-Marc, Inc..; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; Chad Hood; Kinco Ltd. a/k/a Kinco, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall

Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J & R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction LLC;

Defendants.

The Plaintiff, complaining of the Defendants above named, would allege and show unto this Honorable Court as follows:

1. One Hamlin Place Townhome Association, Inc. (hereinafter "Association" or "One Hamlin") is a duly authorized South Carolina non-profit corporation.

2. Defendants John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc.; AC Construction, Inc.; Annisquam Development, LLC; Jorge Medina and JMC Construction, Inc.; Muhler, LLC a/k/a The Muhler Company, Inc.; A-Marc, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Neighborhood Management Associates, Inc.; Tru-Don Contracting, Inc.; Fine Builders, LLC; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc.; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; J & R Construction, LLC a/k/a

JJ&R Construction, LLC; and Cohen's Drywall Company, LLC are, upon information and belief, corporations organized and existing under the laws of the State of South Carolina and are authorized to conduct business in this state. Scott Parker; Paul M. Vasquez; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larson Co.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Gonzalo Guerrero; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; William C. Mulhern d/b/a Bill's Painting; Chad Hood; Doug Pilcher; Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez d/b/a GR Painting; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Latitude Construction Services, LLC; and Richard Ditullio a/k/a RDT Contracting, LLC are, upon information and belief, contractors licensed in the State of South Carolina.

3. Defendants Bridgemill Land, LLC; Builder Support Services of the Carolinas, Inc.; Builders FirstSource – Southeast, LLC; John Wieland Homes and Neighborhoods of the Carolinas, Inc.; John Wieland Homes and Neighborhoods of Charleston, Inc.; JW Homes, LLC; JW Land Investment, LLC; JW Realty Associates, Inc.; JWC Guilford, LLC; JWC Phoenix, LLC; JWH RPIV, LLC; Middlesex Holdings, LLC; OOTB, LLC; Residential Partners, LLC; RP Falcon Properties, LLC; RP Falcon Realty, LLC; RP Falcon Land, LLC; Wheelock Street Capital, LLC; Wheelock Street Investment Management, LLC; Wheelock Street Real Estate Fund, LP; Wieland Realty Associates, Inc.; Wieland Realty, LLC; WS JWH, LLC; WSREF NRT, LLC; and YKK (U.S.A.), Inc.; East Coast Drywall Systems, Inc.; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Kinco Ltd. a/k/a Kinco, Inc.; The Contractor Yard, Inc.; All American Roofing and Construction, LLC; and Leor Construction

LLC, upon information and belief, are foreign corporations that transact business in the State of South Carolina. John Wieland, Sue Wieland, Lindsey Parker, Jack Wieland, and Robert Parker are, upon information and belief, residents of foreign states and transact business in South Carolina.

4. Upon assuming the roles as stated below, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

5. Furthermore, in assuming the roles stated below, the Defendants undertook to make certain that this Community was developed and constituted in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

6. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

7. This Court has jurisdiction over the parties and subject matter hereto.

8. The construction of One Hamlin was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin according to the normal standards of good and workmanlike practice in the construction field.

9. Construction defects in the One Hamlin have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water damage along porches;

(d) Water and moisture intrusion damage resulting from defects including but not limited to the photographs attached as Exhibits 1-16;

(e) Improper flashing installation

(f) Numerous other construction defects that have caused consequential damages to the buildings and require repair.

10. Defendant John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. (hereinafter referred to as "Wieland SC") was a foreign corporation organized and existing under the laws of the State of Georgia and, at all times relevant hereto, was authorized to and did conduct business in the State of South Carolina, County of Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, selling, and constructing the townhomes in a manner for sale to the public. It is currently known as Builder Support Services of the Carolinas, Inc.

11. Defendant John Wieland Homes of Charleston, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia and was authorized to conduct business in this state for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public, and upon information and belief has interests in, uses and possesses real property in South Carolina, and has entered into contracts to be performed in South Carolina. It is currently known as Builder Support Services of the Carolinas, Inc.

12. Defendant John Wieland Homes, Inc., n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc., upon information and belief, was a corporation organized and existing under the laws of the State of South Carolina and was authorized to conduct business in this state, and had a principal place of business in Charleston County Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

13. Defendants John Wieland Homes and Neighborhoods of the Carolinas, Inc., John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., and John Wieland Homes, Inc. (hereinafter referred to as the "Old Wieland Entities") developed, marketed and sold homes in South Carolina and upon information and belief sold all major assets to entities listed below in an attempt to conceal, delay, and frustrate their creditors' attempts to satisfy the Old Wieland Entities' liabilities.

14. Defendant Builder Support Services of the Carolinas, Inc., upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia and is authorized to conduct business in this state. It was formerly known as John Wieland Homes and Neighborhoods, Inc.

15. Defendant Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc. is a foreign corporation organized and existing under the laws of the State of Delaware which describes its business as that of real estate investments and is authorized to conduct business in this state. It is a joint venture formed in November 2012 with the Wieland Defendants where John Wieland Homes and Neighborhoods, Inc. sold to Wheelock Street Capital.

16. Defendant Wheelock Street Real Estate Fund, LP is a limited partnership between Wheelock Street Capital, LLC and other entities organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

17. Defendant Wheelock Street Investment Management, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

18. Defendant RP Falcon Properties, LLC, formerly known as JW Homes, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

19. Defendant Residential Partners, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

20. Defendant Middlesex Holdings, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

21. Defendant WS JWH, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

22. Defendant JWC Phoenix, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

23. Defendant Bridgemill Land, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

24. Defendant Annisquam Development, LLC, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina.

25. Defendant JW Land Investment, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in South Carolina. It is currently known as RP Falcon Land, LLC.

26. Defendant JWC Guilford, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

27. Defendant OOTB, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

28. Defendant Wieland Realty Associates, Inc., also known as JW Realty Associates, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

29. Defendant Wheelock Street Real Estate Fund II, LP, previously identified as Jane Doe 30, is a limited partnership organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

30. Defendant Wheelock Street Real Estate Fund V, LP, previously identified as Jane Doe 31, is a limited partnership organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

31. Defendant WSREF NRT, LLC, previously identified as Jane Doe 32, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

32. Defendant JW Homes, LLC, previously identified as Jane Doe 33, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in the State of South Carolina. It is currently known as RP Falcon Properties, LLC.

33. Defendant JWH RPIV, LLC previously identified as Jane Doe 34, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

34. Defendant RP Falcon Land, LLC f/k/a JW Land Investment, LLC, previously identified as Jane Doe 35, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

35. Defendant Wieland Realty, LLC a/k/a RP Falcon Realty, LLC, previously identified as Jane Doe 36, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

36. Defendant RP Falcon Realty, LLC f/k/a Wieland Realty, LLC previously identified as Jane Doe 37, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

37. Defendant Residential Partners II, LLC previously identified as Jane Doe 38, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

38. Defendant Residential Partners III, LLC previously identified as Jane Doe 39, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

39. Defendant Residential Partners IV, LLC previously identified as Jane Doe 40, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

40. Defendants Builder's Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC, Wheelock Street Real Estate Fund I, II, and V, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners I, II, III, and IV, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., WSREF NRT, LLC, JWH RPIV, LLC, RP Falcon Land, LLC, and Wieland Realty, LLC a/k/a Falcon Realty, LLC (hereinafter referred to as "Wieland Group"), upon information and belief were all organized in such a manner where there is or are:

(a) a substantial relationship between the transferors and transferees of assets;

(b) a retaining of benefits of the transfers for the Old Wieland entities;

(c) secrecy and concealment of terms and negotiations;

(d) circumstances leading to the conclusion that the intent was to delay and hinder creditors from obtaining satisfaction of liabilities;

(e) evidence that the Wieland Group are mere successors in interest and a continuation of the Old Wieland Entities; and

(f) evidence that the entities were operated in such a manner where distinctions between the entities are blurred and should be amalgamated for purposes of judgment.

41. Defendant John Wieland, upon information and belief, is an individual with his primary place of domicile in the State of Georgia. Wieland was the founder, owner, controller, and public face of the above Wieland Entities.

42. Defendant Sue Wieland is the wife of Defendant John Wieland. Upon information and belief, Sue Wieland's place of domicile is in the State of Georgia.

43. Defendants Lindsey Parker and Jack Wieland are the daughter and son of John and Sue Wieland, and Defendant Robert Parker is the son-in-law of John and Sue Wieland. Upon information and belief, Jack Wieland's place of domicile is in the State of Georgia; Robert and Lindsey Parker's place of domicile is in Massachusetts.

44. Defendants John Wieland, Sue Wieland, Jack Wieland, Robert and Lindsey Parker (hereinafter referred to as "Wieland Family") all owned and controlled the Old Wieland Entities. Also, upon information and belief, the Wieland Family own and control the Wieland Group.

45. The Wieland Entities and Wieland Family held, owned, controlled, and/or held additional real estate inventory in additional single purpose entities (SPE) (hereinafter referred to as "Wieland SPE affiliates").

46. The Wieland SPE affiliates were publicly owned and controlled in the names of Sue Wieland and/or Robert Parker.

47. The use of Wieland SPE affiliates and Wieland Group was for the purpose of hindering the creditors of the Old Wieland Entities.

48. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the asset sale to Defendant Residential Partners which, upon information and belief, is owned and controlled by the Wieland Family.

49. Defendant Jorge Medina, individually and d/b/a JMC Construction, LLC a/k/a JMC Construction, Inc. (hereinafter referred to as "JMC"), upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, JMC performed framing, siding, cornice, trim and roofing labor.

50. Upon information and belief, John Does 20-50 and Jane Does 41-50 are individuals or entities organized pursuant to the laws of the State of South Carolina or other states. At all times relevant herein, John Does 20-50 and Jane Does 41-50 were engaged in the business of selling, constructing homes, renovating, supplying products materials and/or services to that end in Charleston, South Carolina.

51. Defendant AC Construction, Inc., previously identified as Jane Doe 1. upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. At all times relevant to this action, AC Construction, Inc., upon information and belief, performed roofing and framing work at the subject property, in Charleston County, South Carolina.

52. Defendant Scott Parker (hereinafter referred to as "Parker") previously identified as John Doe 1, upon information and belief, is a General Contractor licensed in the State of South Carolina. Also, upon information and belief, Parker worked as a neighborhood manager for John Wieland Homes and Neighborhoods.

53. Defendant Builders FirstSource – Southeast Group, LLC previously identified as Jane Doe 2, upon information and belief, is a limited liability company organized and existing

under the laws of the State of Delaware, which transacts business in South Carolina and supplied framing and roofing materials.

54. Defendant Muhler LLC a/k/a The Muhler Company, Inc. previously identified as Jane Doe 3, upon information and belief, is a domestic corporation organized and existing under the laws of the State of South Carolina and produced, supplied, and installed windows at One Hamlin Place.

55. YKK (U.S.A.), Inc. previously identified as Jane Doe 4 is a foreign corporation organized and existing under the laws of the State of New York, which transacts business in South Carolina and produced, supplied, and installed windows at One Hamlin Place.

56. Defendant Paul M. Vasquez (hereinafter referred to as "Vasquez") previously identified as John Doe 2, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Vasquez supplied, sold, and installed windows and doors, together with all associated and related waterproofings and flashings, and other work at the subject property.

57. Defendant Neighborhood Management Associates, Inc. previously identified as Jane Doe 5, upon information and belief, is a corporation organized and existing under the laws of the State of Georgia. Also, upon information and belief, Neighborhood Management Associates served as the property management company for One Hamlin Place.

58. Defendants Billie and Antonio Arias d/b/a Antonio Arias Framing Construction (hereinafter referred to as "Arias") previously identified as John Doe 3, upon information and belief, are contractors licensed in the state of South Carolina. Also, upon information and belief, Arias performed framing and related labor at One Hamlin Place.

59. Defendant Tru-Don Contracting, Inc. (hereinafter referred to as "Tru-Don") previously identified as Jane Doe 6, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Tru-Don performed roofing and related framing work at One Hamlin Place.

60. Defendant Fine Builders, LLC previously identified as Jane Doe 7 (hereinafter referred to as "Fine"), upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Fine performed framing and related labor on townhomes at One Hamlin Place.

61. Defendant Jose Alfredo Sandoval (hereinafter referred to as "Sandoval") previously identified as John Doe 4, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Sandoval performed framing and related labor on townhomes at One Hamlin Place.

62. Defendant Chad Larsen d/b/a Chad Larsen Co. (hereinafter referred to as "Larsen") previously identified as John Doe 5, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Larson performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

63. Defendant Ivan Jose Paiz d/b/a Jose Construction (hereinafter referred to as "Jose") previously identified as John Doe 6, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Jose performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

64. Defendant William B. Angel (hereinafter referred to as "Angel") previously identified as John Doe 7, upon information and belief, is a contractor licensed in the State of

South Carolina. Also, upon information and belief, Angel performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

65. Defendant East Coast Wall Systems, Inc. (hereinafter referred to as "East Coast") previously identified as Jane Doe 8, upon information and belief, is a corporation organized and existing under the laws of the State of North Carolina. Also, under information and belief, East Coast performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

66. Defendant Tracyinne Construction a/k/a T&C Construction, LLC (hereinafter referred to as "T&C") previously identified as Jane Doe 9, upon information and belief is a limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, T&C performed framing labor on townhomes at One Hamlin Place.

67. Defendants Frankcisco and Andrea Dacosta individually and d/b/a AAA Coastline, Inc. (hereinafter referred to as "AAA") previously identified as John Doe 8 and Jane Does 10-11, respectively, upon information and belief, are licensed contractors and operating and existing as a corporation under the laws of the State of South Carolina. Also, upon information and belief, AAA performed framing and related labor on townhomes at One Hamlin Place.

68. Defendant Jack R. Clark individually d/b/a Jack Clark Construction LLC (hereinafter referred to as "Clark") previously identified as John Doe 9, upon information and belief is a licensed South Carolina contractor operating and existing as a limited liability company under the laws of the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

69. Defendant Alex Welch (hereinafter referred to as "Welch") previously identified as John Doe 10, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Welch performed framing and related labor on townhomes at One Hamlin Place.

70. Defendant Tracy McCuiston d/b/a Mastercraft Interior and Exterior (hereinafter referred to as "Mastercraft") previously identified as John Doe 11, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mastercraft performed framing and related labor on townhomes at One Hamlin Place.

71. Defendant Universal Forest Products (hereinafter referred to as "Universal") previously identified as Jane Doe 12, upon information and belief, is a corporation organized and existing under the laws of the State of Minnesota. Also, upon information and belief, Universal performed framing and related labor on townhomes at One Hamlin Place.

72. Defendant Gonzalo Guerrero (hereinafter referred to as "Guerrero") previously identified as John Doe 12, upon information and belief, is a contractor licensed in the State of South Carolina. Also, under information and belief, Guerrero performed framing, sheetrock, fireproofing, siding, trim, and related flashing and caulking labor on townhomes at One Hamlin Place.

73. Defendant A-Marc, Inc. (hereinafter referred to as "A-Marc") previously identified as Jane Doe 13, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, A-Marc performed framing, sheetrock, fireproofing, and all related labor on townhomes at One Hamlin Place.

74. Defendant Emmanuel Kehagis d/b/a Creative Construction (hereinafter referred to as "Creative") previously identified as John Doe 13, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Creative performed framing and related labor on townhomes at One Hamlin Place.

75. Defendant Anthony Kirksey (hereinafter referred to as "Kirksey") previously identified as John Doe 14, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Kirksey performed framing and related labor on townhomes at One Hamlin Place.

76. Defendant Polly S. Clark d/b/a Glenn Clark Construction (hereinafter referred to as "Clark") previously identified as Jane Doe 14, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

77. Defendant Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC (hereinafter referred to as "Mora") previously identified as Jane Doe 15, upon information and belief is a contractor licensed in the State of South Carolina operating and existing as a South Carolina corporation. Also, upon information and belief, Mora performed roofing, masonry, and related flashing and caulking labor on townhomes at One Hamlin Place.

78. Defendant Daniel L. Rogers d/b/a Dan Rogers Roofing, LLC (hereinafter referred to as "Rogers") previously identified as Jane Doe 16, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Rogers performed roofing and related flashing and caulking labor on townhomes at One Hamlin Place.

79. Defendant William C. Mulhern d/b/a Bill's Painting (hereinafter referred to as "Mulhern") previously identified as Jane Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mulhern performed sheetrock, fireproofing, painting, sealant installation, and related labor on townhomes at One Hamlin Place.

80. Defendant Mark A. McFarland individually and d/b/a In the Wind, Inc. (hereinafter referred to as "In the Wind") previously identified as John Doe 15 and Jane Doe 18, respectively, upon information and belief, is a contractor licensed in the State of South Carolina and operating and existing as a South Carolina corporation. Also, upon information and belief, In the Wind performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

81. Defendant Harbor Master, Inc. previously identified as Jane Doe 19, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Harbor Master, Inc. performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

82. Defendant Chad Hood (hereinafter referred to as "Hood") previously identified as John Doe 16, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Hood performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

83. Defendant Kinco Ltd. a/k/a Kinco Inc. (hereinafter referred to as "Kinco") previously identified as Jane Doe 20, upon information and belief, is a Florida corporation organized and existing under the laws of the State of Florida. Also, under information and belief,

Kinco manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

84. Defendant Atrium Companies, Inc. d/b/a Atrium Windows and Doors a/k/a HR Windows previously identified as Jane Doe 21 (hereinafter referred to as "Atrium"), upon information and belief, is a corporation organized and existing under the laws of the State of Delaware. Also, under information and belief, Atrium manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

85. Defendant The Contractor Yard, Inc. (hereinafter referred to as "Contractor Yard") previously identified as Jane Doe 22, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Contractor Yard manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

86. Defendant New Construction Drywall Hanger, LLC (hereinafter referred to as "Drywall Hanger") previously identified as Jane Doe 23, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, Drywall Hanger performed framing, drywall, sheetrock, fireproofing, and related labor.

87. Defendant Doug Pilcher (hereinafter referred to as "Pilcher") previously identified as John Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Pilcher worked as a builder for John Wieland Homes and Neighborhoods at One Hamlin Place.

88. Defendant Michael Cassidy (hereinafter referred to as "Cassidy") previously identified as John Doe 18, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Cassidy worked as a quality manager for John Wieland Homes and Neighborhoods at One Hamlin Place.

89. Defendant DBC Construction Services, LLC (hereinafter referred to as "DBC") previously identified as Jane Doe 24, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, DBC performed roofing and all related waterproofing and flashing work on townhomes at One Hamlin Place.

90. Defendant Gerardo Rosette Sanchez, doing business as GR Painting (hereinafter referred to as "GR") previously identified as Jane Doe 25, upon information and belief is a contractor licensed to do business in South Carolina. Also, upon information and belief, GR performed exterior painting services and all related waterproofing, caulking, and flashing work on townhomes at One Hamlin Plantation.

91. Defendant Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC previously identified as Jane Doe 26 (hereinafter referred to as "J. Mora"), upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, J. Mora performed brick masonry and foundation work along with all related waterproofing, caulking, and flashing on townhomes at One Hamlin Place.

92. Defendant Juan Luis Sanchez a/k/a Sanchez Brothers Painting previously identified as Jane Doe 27 (hereinafter identified as "Sanchez Brothers"), upon information and belief, is a contractor licensed to do business in South Carolina. Also, upon information and

belief, Sanchez Brothers performed exterior painting services and all related waterproofing, caulking, and flashing work on townhomes at One Hamlin Plantation.

93. Defendant Latitude Construction Services, LLC (hereinafter referred to as "Latitude") previously identified as Jane Doe 28, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, Latitude performed porch and balcony waterproofing along with all related flashing and caulking on townhomes at One Hamlin Place.

94. Defendant Richard Ditullio a/k/a RDT Contracting, LLC (hereinafter referred to as "RDT") previously identified as Jane Doe 29, upon information and belief is a contractor licensed to do business in South Carolina and operates as a South Carolina limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, RDT performed roofing and all related waterproofing, flashing, and caulking labor.

95. Defendant Valencia Medina, individually previously identified as John Doe 19, upon information and belief, is an agent of JMC Construction, LLC a/k/a JMC Construction, Inc. Also, upon information and belief, Valencia Medina by and through JMC performed framing, siding, cornice, trim and roofing labor.

96. Defendant J & R Construction, LLC a/k/a JJ&R Construction, LLC, previously identified as Jane Doe 41, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina, and provided materials and performed work on the subject residences.

97. Defendant Cohen's Drywall Company, LLC, previously identified as Jane Doe 42, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina, and provided materials and performed work on the subject residences.

98. Defendant All American Roofing and Construction, LLC, previously identified as Jane Doe 43, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in the State of South Carolina, and provided materials and performed work on the subject residences.

99. Defendant Leor Construction LLC, previously identified as Jane Doe 44, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Florida, which transacts business in the State of South Carolina, and provided materials and performed work on the subject residences.

WIELAND TRANSACTIONAL BACKGROUND

100. Defendants negotiated a transfer of substantially all assets owned and/or controlled by the Old Wieland Entities and the Wieland Family to new entities that were jointly owned by Wheelock and the Wieland Family (the Wieland Group). Ultimately, Wheelock and the Wieland Family reaped a windfall by selling the assets to a third party.

101. It is clear that the Defendants employed a sophisticated scheme to first "launder" and then sell the assets of the John Wieland Homebuilding Enterprises. While the discrete steps of the scheme are less clear, Plaintiffs will set out the currently known facts.

(The 2009 Transactions)

102. The siphoning of valuable assets began as early as 2009. Defendant Robert Parker orchestrated a December 30, 2009 transaction by which 128+ acres in the Bridgemill subdivision (Lancaster County, South Carolina) were sold by John Wieland Homes and Neighborhoods of

the Carolinas, Inc. to OOTB, a company run by William Mitchell, a one-time member of Wieland's board of directors. The Defendants' intention was for OOTB to hold the land and eventually sell it back to the evolving Wieland entities.

103. OOTB reportedly paid Two-Million Dollars ($2,000,000.00) for the Bridgemill land. A year later, in December of 2010, OOTB sold the 128 acres to Annisquam for One-Dollar ($1.00). Annisquam is controlled by John Wieland's immediate family. Next, Annisquam transferred to JW Homes a portion of the 128+ acres it had purchased for One-Dollar ($1.00). The affidavit of consideration for that transfer valued the property at over Seven-Million Five-Hundred and Fifty-Four Thousand Dollars ($7,554,000.00).

104. In a nutshell, the Annisquam/OOTB transaction involved the first *KNOWN* diversion of assets from John Wieland Homes and Neighborhoods of the Carolinas, Inc. to the Wieland Family personally, with the assets ultimately being re-routed into Wheelock.

105. OOTB and Annisquam were created to facilitate the Wieland Family's scheme to remove assets from the reach of creditors.

(The 2012 Transactions)

106. In the fall of 2012, several new corporate entities were created. Residential Partners was formed, or caused to be formed, by Wheelock. JW Homes was formed, or caused to be formed, by Wheelock and/or Residential Partners.

107. JW Land, JWC Phoenix, Middlesex, JWC Guilford were also created in the fall of 2012.

108. Defendants Robert and Lindsey Parker are the sole members and owners of Middlesex.

109. Middlesex is the majority owner of JWC Phoenix.

110. The balance of JWC Phoenix is owned by Defendant Jack Wieland.

111. JWC Phoenix owns a minority interest in Residential Partners.

112. On or about November 15, 2012, the Old Wieland Entities and the Wieland Family transferred the John Wieland Homebuilding Enterprise to an amalgamation of JW Homes, Residential Partners, Wheelock and others. This transfer included the assets, business, intellectual property, goodwill, management, employees, intellectual property rights contracts, real estate inventory, and substantially all of the ongoing business assets of the Old Wieland Entities and affiliates.

113. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the 2012 Transactions.

114. The 2012 Transactions resulted in a joint venture, or *de facto* merger. They involved the Defendants successfully convincing Bank of America, a major lender to the Wieland Entities, to accept less than it was owed, essentially a short sale.

115. The 2012 Transactions represented the sale of substantially all of the homebuilding assets and related intellectual property of the Old Wieland Entities to a new joint venture, a partnership between the Wieland Family and Wheelock.

116. This new partnership carried forward the John Wieland Homes brand and deployed significant new capital resources to drive growth of one of the industry's most well-known names. Included in the transactions were approximately 300 homes and over 5,000 lots in high quality neighborhoods across the Southeast.

117. Defendant John Wieland served as the new company's chairman, directing strategy and providing leadership, vision and support for the new joint venture.

118. The Wieland Family retained their equity and profit interests and substantial control by swapping indirect interests in the pre-November 15, 2012 John Wieland Homebuilding Enterprise for indirect interests (and disproportionately large profit interests) in the post-November 15, 2012 John Wieland Homebuilding Enterprise.

119. JW Homes was the operating company for the new partnerships after the 2012 Transactions. There was no visible difference for the public to see between Builders Support and Residential Partners. JW Homes advertised, as the purchaser of the John Wieland Homebuilding Enterprise, that the business had 40 years of existence. JW Homes, part of Wheelock, presented itself as the entity responsible for Waverly. JW Homes, as part of Wheelock, took over the home construction business of the Wieland entity that built Waverly. When Residential Partners/JW Homes bought Builders Supply, nothing about the operation changed.

120. The Defendants functioned as an integrated whole, transferring assets from the Wieland operating entities to newly formed entities at unfairly low prices.

(The Operation of the Enterprise after the 2012 Transactions)

121. After the 2012 Transactions, the John Wieland Homebuilding Enterprise continued unabated, selling approximately 500 residences per year at an average sales price of approximately $450,000.00 per residence, resulting in average annual sales of approximately $22.5 million or better. Upon information and belief, this yielded profits before taxes and interest of approximately $4.0 million per year or more.

122. The operation of the Wieland Homebuilding Enterprise remained virtually unchanged.

123. The new entities, which remained under substantial control by the Wieland Family, advertised and promoted their forty years of homebuilding experience, even though all

the new entities were created in the fall of 2012. On its website, JW Homes claims to have been founded in 1970.

124. JW Homes was in fact a continuation of, and a successor to, the entities that operated the John Wieland Homebuilding Enterprise prior to November 15, 2012:

a. JW Homes operated the John Wieland Homebuilding Enterprise under the "John Wieland" tradename;

b. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same employees;

c. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same management personnel;

d. JW Homes continued Wieland Homebuilding Enterprise with one or more of the same Board members and/or executive personnel;

e. JW Homes occupied the same corporate office as the Wieland Entities did prior to the 2012 Transactions;

f. JW Homes maintained the same telephone numbers as the Wieland did prior to the 2012 Transactions;

g. JW Homes maintained the same internet and email domain ("jwhomes.com") as the Wieland did prior to the 2012 Transactions;

h. JW Homes continued to market itself utilizing the reputation, awards, experience, and history of Wieland and the Wieland Entities;

i. JW Homes continued to use John Wieland's mantra "enduring core values, known as EPIC: Excellence, Passion, Presentation, Integrity, Completeness".

j. JW Homes continued the John Wieland Homebuilding Enterprise in the same locations in which Wieland previously operated;

k. JW Homes possessed the corporate records of the Old Wieland entities; and

l. Residential Partners and JW Homes expressly assumed most of the warranty obligations of the Wieland Entities.

125. The Wieland Family continued to avail itself of the benefits of the Wieland Homebuilding Enterprise while concealing its continued participation from the public, Plaintiffs included.

126. The Wieland Entities were subsumed by JW Homes, Wheelock, and Residential Partners at the time of the 2012 Transactions.

127. Upon information and belief, The Old Wieland Entities have defended over one hundred (100) lawsuits claiming defective construction in Charleston County and many more elsewhere.

128. Defendants knew of the Wieland Entities' long history of defective construction.

(Effect on One Hamlin Place Owners)

129. Defendants knowingly and willfully stripped the Wieland Entities of assets and left Wieland with no assets available to compensate their prior clients for defectively constructed homes and/or to rectify the defects.

130. The Wieland-Wheelock interests diverted the key assets out of the Wieland operating companies, including their goodwill, leaving behind judgment-proof corporate shells to be "responsible" for Wieland's defective construction.

131. These corporate entity manipulations, calculated to divert value to Wieland's owners while leaving behind judgment-proof entities, occurred at a time when the Defendants were acutely aware that their construction activities in Charleston were grossly deficient.

132. Plaintiffs have been deprived of recourse and repair monies for their defective homes.

133. Plaintiffs have further had to endure substandard and potentially dangerous living conditions, delays in repairs, and loss of the value of their equity in their homes.

134. For most class members, these townhomes constitute their most significant asset, currently and in retirement, and the impairment of this asset and lack of repair funds causes the Plaintiff class financial stress.

135. Plaintiffs are incurring increased expenses for temporary repairs while the permanent resolution is delayed by Defendants' activities.

136. The Association's reserves are being depleted by the foregoing, and Plaintiff class members are facing higher regime fees and/or future assessments as a result.

FACTUAL BACKGROUND

137. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if fully set forth herein verbatim.

138. Plaintiffs are informed and believe that the Developer Defendants engaged contractors to construct the Project including 105 properties, and related facilities and amenities, collectively known as One Hamlin Place Townhomes, which were thereafter substantially completed, and contained various buildings. The Developer Defendants, by and through various instrumentalities and alter-egos and other Defendants were the original developers of the Project and/or are liable for the actions of the original Developer of the project.

139. The Developer Defendants created and controlled numerous and various entities including, but not limited to, the John Wieland Homes and Neighborhoods of South Carolina, Inc., Builder Support Services of the Carolinas, and Wieland Defendants set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and leasing of the townhomes that were known as One Hamlin Place Townhomes. The Developer Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion

of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities were merely a facade for the operations of the Developer Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between the Developer Defendants and the sham entities, shareholders, officers, agents, partners, employees, assets, and each of them.

140. By way of example, the Wieland Defendants included entities which were created to perform single purpose functions in order to effectuate the sole will of the Developer Defendants in purchasing, developing, leasing, and/or selling the homes. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, the Developer Defendants and the Individual Developer Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

141. The sham entities established by the Developer Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of the Developer Defendants, the Developer Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or the

Developer Defendants directly contracted for the sham entities in the name of the Developer Defendants.

142. The Developer Defendants directed and oversaw those listed as Defendants herein and contractors including the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

143. The Developer Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

144. There would exist a broad element of injustice and fundamental unfairness of the acts of the Developer Defendants, and each of them individually, were not regarded as the acts of one another.

145. The Defendants began the process of constructing the townhomes by engaging and directing the actions of the various contractors and/or subcontractors named as Defendants herein, and participated in the negligent, deficient, and shoddy workmanship which ignored and/or covered up design and construction defects then in existence and, thereafter, placed the units into the stream of commerce for sale, which they did sell to the general public and, in particular, to the current owners who are members of the Association.

146. The Developer Defendants, by and through their instrumentalities and alter-ego entities, controlled and operated the Association and its Board of Directors prior to turning over control of the One Hamlin Association. During this period, the Developer Defendants attempted

to carry out construction prior to, during and after the time they offered and sold said townhome units. This work was attempted to be performed by contractors engaged by the Developer Defendants for the purpose of expediting the sales process and was calculated for the purpose of, or through careless, reckless, negligent and grossly negligent conduct by the Developer Defendants, resulting in the concealing, fabricating, patching, hiding, and/or cloaking of the deficiencies and damage known, both actually and constructively, to the Developer Defendants and/or their affiliates, subservient entities, agents, and assigns.

147. At the time the units were offered for sale and placed into the stream of commerce by the Developer Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of the Developer Defendants.

148. The Developer Defendants and the Contractor Defendants, and each and every other above-captioned Defendant knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

149. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

150. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting

actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

151. The Plaintiffs suffered damages when the Developer Defendants put these units into the stream of commerce and continue to be damaged through the date of this filing.

152. The Developer Defendants failed to make a sufficient inquiry into the conditions of the Project in order to establish adequate financial reserves for maintenance and repair of the Project, and instead provided inaccurate and misleading information to third-parties in the research and establishment of the reserve figures, and thereby provided inaccurate and misleading reserve requirements and related information to the general public, prospective purchasers, and to the Plaintiffs, both before and after tendering control of the Association and the common elements to the homeowners, all resulting in damages to the Plaintiffs and in violation of South Carolina law, the Master Deed, and the By-laws.

153. The Developer Defendants controlled and managed the Association and its Board of Directors through the use of its subservient entities prior to the tender of the control over the Association to the unit owners; and the Developer Defendants negligently failed to provide sufficient and reasonable information and resources for the proper management and maintenance of the Project; and in fact negligently provided insufficient, inaccurate, and misleading information and prevented the use of financial and other resources required for the proper management and maintenance of the Project, all of which resulted in continued and exacerbated damages to the Project and suffered by the Plaintiffs.

154. The Developer Defendants were engaged in a joint venture, partnership, or other legal or de facto relationship with each other.

155. The Developer Defendants caused, directed, participated in, or acted in willful, reckless, heedless, negligent and grossly negligent disregard of their collective and respective acts and omissions in the planning, development, design, construction, management and sale of the units in the Project, all as more fully described herein.

156. The Developer Defendants represented to the public over the internet and through various publications and other media that they, by and through their various affiliates, entities, venturers, and agents referenced herein, were qualified, experienced, and would in fact be directing, managing, and otherwise facilitating the construction and selling of the units, and these representations were relied upon by the Plaintiffs.

157. Prior to and until transferring control of the One Hamlin Association to the unit owners and a newly elected Board of Directors comprised of unit owners, the Developer Defendants, through their subservient and affiliated entities, employees, and agents, had a duty to serve as Board members and to conduct the business of the One Hamlin Association, had authority and control over, and in fact controlled and directed the One Hamlin Association Board of Directors and dictated all of the Board's activities.

158. In conjunction therewith, the Developer Defendants in their capacity as Board members and otherwise, in a negligent manner, carelessly, willfully, wantonly, and with reckless disregard for the rights of the Plaintiffs, participated in, acquiesced in and caused the wrongful acts and omissions described herein.

159. These collective and respective wrongful acts and omissions of the Developer Defendants and such other Defendants as set forth in the causes of action below, represent unfair trade practices and have resulted in substantial deterioration and/or failure of structures and building systems, building deficiencies, actual, incidental, special and consequential damages

and loss of use. Remedying the above wrongful acts will result in actual, incidental, consequential, and special damages including loss of use to the Plaintiffs and its members, and entitle Plaintiffs and its members to punitive damages and attorney's fees. Further, these wrongful acts and omissions have directly and proximately caused substantial diminution in value, both pre- and post-repair.

160. The acts and omissions of the Defendants were contrary to the duties they owed, individually and collectively, to the Plaintiffs and actually caused damages to the Plaintiffs including, but not limited to, damages which did not result from the acts and omissions of other defendants and including, but not limited to, damages other than damages which resulted in physical injury or damage to tangible real and personal property in connection with this Project.

161. One Hamlin Place Townhomes is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina and, upon information and belief, was owned, developed, marketed and constructed by the Defendants.

162. Upon assuming the roles as stated above, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

163. Furthermore, in assuming the roles stated above, the Defendants undertook to make certain that this Community was developed in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

164. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

165. This Court has jurisdiction over the parties and subject matter hereto.

166. The construction of One Hamlin Place Townhomes was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin Place Townhomes according to the normal standards of good and workmanlike practice in the construction field.

167. Construction defects in the One Hamlin Place Townhomes have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water and moisture intrusion damage resulting from defects;

(d) Improper flashing installation;

(e) Improper window installation; and

(f) Improper building envelope

168. As a direct and proximate result and consequence of the faulty construction by the Defendants of Plaintiff's homes, causing major problems and defects thereto, the Plaintiff have and will continue to spend substantial sums of money for the repairs and reconstruction of major portions of One Hamlin Place Townhomes and will be subject to consequential damages.

169. Defendants negotiated a transfer of substantially all assets owned and/or controlled by the Wieland Entities and the Wieland family.

FOR A FIRST CAUSE OF ACTION
(Violation of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, *et seq.*)

170. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

171. Plaintiff and the Defendants are "persons" within the meaning of S.C. Code § 39-5-10(a).

172. The Defendants, by developing, marketing and constructing the subject Residences, were engaged in commerce within the meaning of S.C. Code § 39-5-10(b).

173. The Defendants' actions, described hereinabove, constitute unfair and deceptive practices within the meaning of S.C. Code § 39-5-20(a).

174. The Defendants' acts are capable of repetition, and, upon information and belief, have been repeated.

175. The Defendants' conduct affects the public interest of South Carolina.

176. The Defendants knew, or reasonably should have known, that their conduct violated the Unfair Trade Practices Act.

177. As a direct foreseeable and proximate result of the Defendants' unfair and deceptive practices, Plaintiff has suffered an ascertainable loss of money and property.

178. Plaintiff is entitled to recover its actual damages, which amount should be trebled, together with interest and attorney's fees.

FOR A SECOND CAUSE OF ACTION
(Breach of Implied Warranty)

179. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

180. The design, construction, development and sale of the units by these Defendants contained as a matter of law implied warranties of good faith and fair dealing, fitness for use merchantability, habitability, and workmanship with respect to construction, which warranties were not effectively disclaimed under South Carolina law.

181. The Developer Defendants, whether named or unnamed on the Deeds of Transfer, through their acts and/or omissions, have breached the aforesaid implied warranties, which directly, actually, and proximately caused and resulted in damage which the Plaintiff has suffered and continues to suffer in an amount to be determined by the trier of fact.

182. These Defendants are therefore liable to the Plaintiff for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A THIRD CAUSE OF ACTION
(Breach of implied Warranty of Fitness of Habitability)

183. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

184. That the Defendants impliedly warranted as a matter of law that the subject Residences which they built were habitable and fit for their intended uses.

185. That this implied warranty was breached by the Defendants and the work was performed in a manner below ordinary workmanship and the subject Residences were neither habitable nor fit for their intended use causing damage to Plaintiff.

FOR A FOURTH CAUSE OF ACTION
(Breach of Implied Warranty of Fitness for Particular Purpose)

186. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

187. The Defendants had the duty to develop, market and construct the subject Residences according to industry standards and in a good and workmanlike manner, and an implied warranty of fitness attached to the sales of these homes.

188. At the time of the sale of the subject Residences to the Plaintiff, the Defendants had reason to know if any or all parts of the construction of the subject residences were not completed according to industry standards and in a good workmanship manner.

189. The Defendants, at the time of the sale of the subject Residences to the Plaintiff, had reason to know that the Plaintiff was relying on the skill and/or judgment of the Defendants to properly construct the homes and adjacent facilities according to industry standards and in a good and workmanlike manner. Plaintiff, in fact, relied on the Defendants' skill and judgment.

190. The Defendants did not properly construct the subject homes and facilities according to industry standards and in a good and workmanlike manner, causing major defects to One Hamlin Place Townhomes.

191. As a result of the Defendants' breach of its implied warranties, Plaintiff has suffered physical damages.

FOR A FIFTH CAUSE OF ACTION
(Breach of Implied Warranties as to the Project's Development and Construction)

192. Plaintiff repeats and re-alleges each and every allegation of this Complaint as if fully set forth herein verbatim.

193. These Defendants engaged in conduct during the period of development and construction of the Project which gave rise to duties and implied warranties to the public including, but not limited to, tenants, purchasers and other users of the Project, in that by their conduct these Defendants placed the Project, which constitutes defective, deleterious, and dangerous property, into the stream of commerce.

194. The placement of the Project into the stream of commerce by these Defendants, contained as a matter of law implied warranties of fitness, merchantability, workmanship and habitability, which warranties were not effectively disclaimed pursuant to South Carolina law.

195. As a direct and proximate result of the breaches of the above-described implied warranties by these Defendants, their affiliates, associates, sham entities, and/or joint venturers, whether named or unnamed on any documents transferring interest in the Project, the Plaintiff has suffered and will continue to suffer damages, injuries and other losses.

196. These Defendants are therefore liable to the Plaintiff for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SIXTH CAUSE OF ACTION
(Negligence, Professional Negligence, and Gross Negligence)

197. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein verbatim.

198. Defendants, and each of them, owed a duty to Plaintiff to act in a manner compliant with the reasonable standard of care, good faith, and fair dealing recognized under South Carolina law, and Defendants violated this duty to the Plaintiff and were negligent,

professionally negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars:

a) in failing to properly design, construct, develop and repair the townhomes;

b) in failing to comply with the applicable Building Codes of the County of Charleston, the City of Mount Pleasant and the State of South Carolina;

c) in failing to comply with the applicable Fire and Safety Codes of the County and of Charleston, the City of Mount Pleasant and the State of South Carolina;

d) in failing to properly design and construct the structural elements and the foundation and other elements of the Project to permit the existence of an adequate and sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

e) e) in failing to establish and maintain a sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

f) in failing to properly supervise the project developer entities and individuals, project architects and engineers, as well as contractors, subcontractors, suppliers and/or agents or employees of any of them in connection with the planning, development, design and construction of the townhomes offered for sale to the public;

g) in manufacturing, fabricating, preparing for the incorporation into a residential building, reviewing, approving, procuring, and incorporating into the construction of this project such items which were defective, deficient, inferior, inadequate, unsafe, dangerous, inappropriate for the use intended, noncompliant with approved design or design intent, non-compliant with applicable codes and standards in the industry, and otherwise improper for use in the project including, but not limited to, HVAC systems, mechanical systems, plumbing systems, drainage systems, and sewer line systems without appropriate clean-out piping and/or other issues; electrical systems and equipment, interior and exterior drywall and other substrate and sheathing material, windows, insulation, roofing, waterproofing systems, and other building materials and supplies, finishes, and other items relating to the construction and ultimate use of this residential project;

h) in designing, constructing, marketing, selling, units and/or property with defective windows;

i) in designing, constructing, marketing, selling, units and/or properly with inadequate flashing;

j) in designing, constructing, marketing, selling, units and/or property with inadequate roofs;

k) in designing, constructing, marketing, selling, units and/or property with inadequate water barriers;

l) in designing, constructing, marketing, selling, units and/or property with without weather proof building envelopes and exteriors;

m) in designing, constructing, marketing, selling, units and/or property which were defective, deficient, inadequate, unsafe, dangerous, or otherwise non-compliant with codes and standards;

n) in placing defective and inferior construction into the stream of commerce;

o) in placing defective and inferior manufactured systems, equipment, building materials and other products into the stream of commerce.

p) in failing to permit and facilitate a proper evaluation of the condition of the Project prior to and during the process of offering units and other property for the use and sale to the general public and, further, to obstruct and/or hinder efforts to conduct a proper evaluation of the Project by intended purchasers or users;

q) in misrepresenting the condition of the units, common elements, garages and other property to prospective and actual purchasers and other users, and in making representations in negligent and/or intentional disregard of whether these representations were false or inaccurate;

r) in failing to undertake sufficient actions to develop a plan for repairs and otherwise failing to make adequate repairs to conditions at the project which were unsafe, dangerous, or otherwise not in compliance with applicable building codes or other authorities or standards of care;

s) in negligently and/or intentionally covering up deficiencies prior to construction of the units and other property for sale or use by the general public;

t) in failing to determine accurate information required, failing to disclose the absence of such information, as well as negligently and/or intentionally providing misleading and inaccurate information regarding the proper level of financial capitalization and reserve funding required for the operations, maintenance, and repairs required by the One Hamlin Association for the Project and individual unit owners;

u) in tendering common elements and other property to Plaintiff in a deficient condition;

v) in failing to act as reasonable persons would in circumstances then and there prevailing and in such other failures as will be shown during discovery and at trial.

199. Said failures above-described, as well as the Defendants' gross negligence, willfulness, and reckless disregard for the rights of Plaintiff and others, have actually and proximately caused damages to Plaintiff, and the Defendants are liable to the Plaintiff in an amount of actual, incidental, consequential, special, and punitive damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Misrepresentation)

200. Plaintiff repeats and re-alleges each and every allegation of this Complaint as if fully set forth herein verbatim.

201. These reports and representations were actually published and presented for information to the general public by these Defendants, and these representations were actually received by, and relied upon by, the prospective and actual purchasers of the townhomes at the Project.

202. At the time of the sale of the homes and the turnover of control of the One Hamlin Place Townhome Association from the Developer Defendants to the unit owners, Plaintiff was not aware of the falsity of the representations or the lack of investigation and lack of candor by these Defendants in connection with the reports.

203. Plaintiff subsequently determined that the representations made by these Defendants were false and that these Defendants failed to exercise due care, not only in failing to discover defects in the project, but also in failing to communicate information about the true condition of the Project. As a result of its justifiable reliance on the representations, reports, and other documents presented by these Defendants, Plaintiff and its members have assumed control over the Project and/or purchased units, and have thereby suffered pecuniary losses in an amount to be determined by the trier of fact.

204. As a direct and proximate result of its justifiable reliance on numerous false representations made by these Defendants in connection with the Project, Plaintiff has suffered, and these Defendants are liable to the Plaintiff for actual, incidental, consequential, and special damages, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN EIGHTH CAUSE OF ACTION
(Breach of Contract)

205. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

206. That the Defendants entered into a contract with the homeowners and/or predecessors-in-title, whereby the Defendants were to construct the subject homes and facilities to industry standards and in a good workmanlike proper manner.

207. The Defendants did not honor their obligations under the agreement with the Plaintiff and/or its predecessors-in-title in that they failed to construct subject Residences according to industry standards and in a good, workmanlike proper manner causing major defects to the homes.

208. That the Defendants are in breach of the parties' contracts.

209. That as a result of the Defendants' breach of contract, the Plaintiff has suffered and will continue to suffer and are entitled to recover monetary damages caused by the defective construction by the Defendants and for loss of use and diminution in value of the subject Residences.

FOR A NINTH CAUSE OF ACTION
(Breach of Fiduciary Duty as to the Developer/Owner Defendant)

210. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

211. The Developer/Owner Defendant had a fiduciary duty and duty of loyalty and good faith dealing to transfer One Hamlin Place Townhomes to the control of the Plaintiff in a state of good repair. Defendants, having transferred elements with the defects and deficiencies set forth above, in the alternative is required to provide the Plaintiff with the funds necessary to bring the elements up to standard of reasonably good repair and condition.

212. Defendants breached their fiduciary duty and duty of loyalty and good faith dealing by transferring the elements in a substandard and deficient condition without the funds necessary to bring them up to standards of good repair and condition.

213. As a direct and proximate result and consequence of the Defendants' actions, Plaintiff has suffered damages in the amount equal to the extraordinary repair, maintenance and

reconstruction costs required and expended, and to be required and expended, over the expected life of the buildings and other improvements, loss of use and diminution in value.

FOR A TENTH CAUSE OF ACTION
(Alter Ego Liability and Piercing the Corporate Veil)

214. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

215. The Developer Defendants, by and through various instrumentalities and alter-egos and each other were the original developers of the Project, and the Defendants combined and joined together through various instrumentalities and alter egos to facilitate to process of building the townhome units in or about 2006-2007.

216. The Defendants created and controlled numerous and various entities including, but not limited to, the Wieland Defendants and Builder Support Services, Inc. set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and sale of the townhomes that are known as the One Hamlin Place Townhomes. The Defendants created and controlled numerous and various entities including, but not limited to, Wieland, for the sole purpose of the building and sale of the townhomes at the Project. These Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of these Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction

between these Defendants and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

217. These Defendants created entities which were created to perform single purpose functions in order to effectuate the sole will of these Defendants in purchasing, developing, leasing, and/or selling the units. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, these Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

218. These Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

219. The sham entities established by these Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of these Defendants, these Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or these Defendants directly contracted for the sham entities in the name of these Defendants.

220. These Defendants directed and oversaw the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

221. There would exist a broad element of injustice and fundamental unfairness if the acts of these Defendants, and each of them individually, were not regarded as the acts of one another.

222. At the time the units were offered for sale and placed into the stream of commerce by these Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiff, all as a direct and proximate result of an investigation initiated by Plaintiff, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of these Defendants.

223. All Defendants knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiff.

224. These latent building defects have, unbeknownst to Plaintiff, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

225. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

226. The Plaintiff suffered damages and injuries when these Defendants put these units into the stream of commerce and continue to be damaged and injured through the date of this filing.

227. As a direct and proximate result thereof, these Defendants are liable to the Plaintiff for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN ELEVENTH CAUSE OF ACTION
(Violation of the Residential Property Condition Disclosure Act)

228. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

229. These Defendants were engaged in a joint venture, partnership, or some other form of business venture or association including, but not limited to, the formation of a Limited Liability Company, in connection with the development and construction of the One Hamlin Place Townhomes.

230. The Developer Defendants did so place the townhome units into the stream of commerce for sale to the general public and to the members of the One Hamlin Association in particular.

231. At all times relevant to this cause of action the Developer Defendants were "owners" as that term is used within S.C. Code Ann. § 27-50-10 *et seq.,* referred to as the "South Carolina Residential Property Condition Disclosure Act" (referred to in the remainder of this cause of action as the "Act").

232. The Developer Defendants failed to furnish to the purchasers of the townhome units a written disclosure statement in conformity and compliance with S.C. Code Ann. § 27-50-40.

233. These Defendants failed to inform the sellers of the units of their obligations under the Act and had reasonable cause to suspect that the information, if any, supplied by the sellers to the individual purchasers was inherently false, incomplete, and misleading.

234. Upon information and belief, notwithstanding the above-described failures of these Defendants, and each of them, knowingly violated and/or failed to perform the duties described in§ 27-50-40.

235. The nature of the defects that were undisclosed in violation of§ 27-50-40, prevented and/or limited any inspection performed by the Plaintiff to uncover or discover the said defects.

236. As a direct and proximate result of these Defendants' violations of their respective and collective duty to furnish written disclosure to the purchasers as required by§ 27-50-10, *et seq.,* the Plaintiff has suffered, and these Defendants are liable to the Plaintiff for, actual, incidental, consequential, and special damages, along with costs, interest, and attorney's fees pursuant to the remedies set forth in the Act, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A TWELFTH CAUSE OF ACTION
(Strict Liability)

237. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

238. Each and every townhome unit sold by these Defendants was a product within the meaning of S.C. Code Section 15-73-10, *et seq.*

239. These Defendants are and were engaged in the business of selling the aforesaid townhome units which are within the meaning of S.C. Code Section 15-73-10, *et seq.*

240. The aforesaid townhome units/products were expected to, and in fact did, reach the Plaintiff herein as a User or Consumer without substantial change in condition in which it was sold within the meaning of Section B of S.C. Code 15-73-10, *et seq.*

241. The townhome units/products which were sold by these Defendants were at the time of sale in a defective condition, unreasonably dangerous to Plaintiff as a User or Consumer or to the Plaintiff's property and, as such, these Defendants are strictly liable to Plaintiff as a User or Consumer herein for the physical harm and damage proximately caused thereby.

242. As a direct and proximate result thereof, Plaintiff as a User or Consumer have suffered, and these Defendants are liable to the Plaintiff for, actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A THIRTEENTH CAUSE OF ACTION
(Individual Liability as to the Developer Defendants)

243. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as fully set forth herein verbatim.

244. As a direct and proximate cause and result of the acts and omissions of these Defendants as aforesaid, Plaintiff has been damaged, and these Defendants are liable to the Plaintiff for actual, incidental, consequential, and special damages in an amount to be determined

by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A FOURTEENTH CAUSE OF ACTION

(Amalgamation Liability as to John Wieland Homes and Neighborhoods of the Carolinas, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; John Wieland Homes of Charleston, Inc.; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; and Residential Partners IV, LLC)

245. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein.

246. These Defendants have operated in such a manner that the distinctions between the entities and their activities have become blurred.

247. There is excessive interrelationship between the entities and their activities; a sharing of management and employees and other public assets; and an absence of delineation between the entities such that the public is unable to tell where one entity's activities stop and the next entity's activities start.

248. Upon information and belief, these Defendants have been set up as different legal entities so to protect fraud, exercise bad faith, justify wrong, and defeat public policy.

249. Upon information and belief, there is evidence that the blurred legal distinctions of these separate entities have resulted in bad faith, abuse, fraud, wrongdoing, and injustice.

250. Treating these Defendants as separate entities will perpetuate an injustice on Plaintiffs and allow Defendants to unjustly enrich themselves by untoward means.

251. The above listed entities should be amalgamated for purposes of any judgment in this action and viewed as a single business enterprise.

FOR A FIFTEENTH CAUSE OF ACTION
(Civil Conspiracy as to All Defendants)

252. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein.

253. Defendants have conspired and acted in concert and in combination in the above acts with the intent to injure Plaintiff for Defendants' gain and benefit.

254. Defendants' above-described acts have caused Plaintiff the above-described special damages.

255. Plaintiff is entitled to an award of damages in an amount to be determined by the trier of fact.

256. If it is shown that Defendants' actions were committed maliciously, wantonly, and/or with reckless disregard for the rights of others, Plaintiffs are entitled to an award of punitive damages against Defendants.

FOR A SIXTEENTH CAUSE OF ACTION
Fraudulent Conveyance as to All Defendants

257. Plaintiff repeats and re-alleges the allegations contained in the above paragraphs as if fully set forth herein.

258. While on notice of Plaintiff's potential claims, Defendants engaged in a pattern and practice of transferring assets in an effort to defraud his creditors.

259. The Wieland Family sold all of the Old Wieland Entities' assets, thus depriving the Old Wieland Entities of available resources to satisfy its debtors' claims, including Plaintiffs'.

260. The transfers of the Old Wieland Entities' assets were made for inadequate consideration to the Old Wieland Entities.

261. Defendants knew, or should have known, that creditors, including Plaintiff, had potential claims against the Old Wieland Entities at the time of the transfers.

262. The transfers were made with an actual or constructive intent to defraud creditors.

263. The transfers of the Old Wieland Entities' assets are void because they were intended to delay, hinder, or defraud Plaintiffs of a just and lawful debt.

264. Plaintiff is entitled to have the John Wieland Homebuilding Enterprise, or the proceeds thereof, made subject to Plaintiff's claims, or be awarded judgment thereon.

WHEREFORE, the Plaintiff prays that this Court issue an Order granting judgment for the Plaintiff against the Defendants, jointly and severally, for the following:

(a) for actual damages in an amount to be proven at trial;

(b) for trebled damages under S.C. Code § 39-5-10, et seq.;

(c) for punitive damages;

(d) for prejudgment and post judgment interest on Plaintiff's damages;

(e) for attorney's fees and costs; and

(f) for such other and further relief as this Court may deem just and proper.

[Signature page to follow]

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

January 10, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50),)
)
Plaintiffs,)
)
vs.)
)
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (45-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource – Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2017-CP-10-5246

SECOND AMENDED VERIFIED COMPLAINT
(Jury Trial Demanded)

FILED
2019 JAN 30 PM 2:38
JULIE J. ARMSTRONG
CLERK OF COURT
BY

(U.S.A), Inc.; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Gonzalo Guerrero; A-Marc, Inc..; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; Chad Hood; Kinco Ltd. a/k/a Kinco, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall

Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J & R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction LLC;	)
Defendants.	)

The Plaintiff, Gary Keisler as Class Representative, and the above-named Plaintiffs (hereinafter collectively referred to as "Plaintiffs"), individually and as a class of similarly situated owners of townhome units in a residential townhome community named One Hamlin Place Townhomes complaining of the above-mentioned Defendants, allege and state as follows:

1. Plaintiff, Gary Keisler, is a citizen and resident of Charleston County, South Carolina, who at all times relevant hereto lives in a residential community known as One Hamlin Place Townhomes, located in Mount Pleasant, South Carolina, Plaintiff Gary Keisler further alleges and states that he is bringing this action pursuant to Rule 23, SCRCP, as representing a class composed of each and every unit owner in the One Hamlin Place Townhome Association, Inc., and that:

a) The class is so numerous that joinder of all members is impracticable;

b) There are questions of law and fact common to the class;

c) The claims of the Plaintiff, Gary Keisler, are typical of the claims of the class;

d) The Plaintiff, Gary Keisler, will fairly and adequately protect the interest of the class; and

e) The amount in controversy exceeds One Hundred Dollars ($100.00) for each member of the class.

2. The individual Plaintiffs are citizens and residents of Charleston County, South Carolina, who at all times relevant hereto live in a residential community known as One Hamlin Place Townhomes, located in Mount Pleasant, South Carolina.

3. Plaintiffs who are the original purchasers of their respective townhome units in One Hamlin Place Townhomes, and shall hereinafter be referred to collectively as "Original Purchasers".

4. One Hamlin Place Townhomes (hereinafter collectively referred to "the property" or "One Hamlin") is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina and, upon information and belief, was owned, developed, marketed and constructed by the Defendants.

5. Defendants John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc.; AC Construction, Inc.; Annisquam Development, LLC; Jorge Medina and JMC Construction, Inc.; Muhler, LLC a/k/a The Muhler Company, Inc.; A-Marc, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Neighborhood Management Associates, Inc.; Tru-Don Contracting, Inc.; Fine Builders, LLC; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc.; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; J & R Construction, LLC; and Cohen's Drywall Company, LLC are, upon information and belief, corporations organized and

existing under the laws of the State of South Carolina and are authorized to conduct business in this state. Scott Parker; Paul M. Vasquez; Valencia Medina; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larson Co.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Gonzalo Guerrero; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; William C. Mulhern d/b/a Bill's Painting; Chad Hood; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez d/b/a GR Painting; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Latitude Construction Services, LLC; and Richard Ditullio a/k/a RDT Contracting, LLC are, upon information and belief, contractors licensed in the State of South Carolina.

6. Defendants Bridgemill Land, LLC; Builder Support Services of the Carolinas, Inc.; Builders FirstSource – Southeast, LLC; John Wieland Homes and Neighborhoods of the Carolinas, Inc.; John Wieland Homes and Neighborhoods of Charleston, Inc.; JW Homes, LLC; JW Land Investment, LLC; JWC Guilford, LLC; JWC Phoenix, LLC; JWH RPIV, LLC; Middlesex Holdings, LLC; OOTB, LLC; Residential Partners, LLC; RP Falcon Properties, LLC; RP Falcon Realty, LLC; RP Falcon Land, LLC; Wheelock Street Capital, LLC; Wheelock Street Investment Management, LLC; Wheelock Street Real Estate Fund, LP; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; Wieland Realty, LLC; WS JWH, LLC; WSREF NRT, LLC; and YKK (U.S.A.), Inc.; East Coast Drywall Systems, Inc.; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Kinco Ltd. a/k/a Kinco, Inc.; The Contractor Yard, Inc.; All American Roofing and Construction, LLC; and Leor Construction LLC, upon information and belief, are foreign corporations that transact business in the State of

South Carolina. John Wieland, Sue Wieland, Lindsey Parker, Jack Wieland, and Robert Parker are, upon information and belief, residents of foreign states and transact business in South Carolina.

7. Upon assuming the roles as stated below, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

8. Furthermore, in assuming the roles stated below, the Defendants undertook to make certain that this Community was developed and constituted in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

9. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

10. This Court has jurisdiction over the parties and subject matter hereto.

11. The construction of One Hamlin was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin according to the normal standards of good and workmanlike practice in the construction field.

12. Construction defects in the One Hamlin community have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water damage along porches;

(d) Water and moisture intrusion damage resulting from defects including but not limited to the photographs attached as Exhibits 1-16;

(e) Improper flashing installation

(f) Numerous other construction defects that have caused consequential damages to the buildings and require repair.

13. Defendant John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. (hereinafter referred to as "Wieland SC") was a foreign corporation organized and existing under the laws of the State of Georgia and, at all times relevant hereto, was authorized to and did conduct business in the State of South Carolina, County of Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, selling, and constructing the townhomes in a manner for sale to the public. It is currently known as Builder Support Services of the Carolinas, Inc.

14. Defendant John Wieland Homes of Charleston, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia and was authorized to conduct business in this state for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public. It is currently known as Builder Support Services of the Carolinas, Inc.

15. Defendant John Wieland Homes, Inc., n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc., upon information and belief, was a corporation organized and existing under the laws of the State of South Carolina and was authorized to conduct business in this state, and had a principal place of business in Charleston County

Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

16. Defendants John Wieland Homes and Neighborhoods of the Carolinas, Inc., John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., and John Wieland Homes, Inc. (hereinafter referred to as the "Old Wieland Entities") developed, marketed and sold homes in South Carolina and upon information and belief sold all major assets to entities listed below in an attempt to conceal, delay, and frustrate their creditors' attempts to satisfy the Old Wieland Entities' liabilities.

17. Defendant Builder Support Services of the Carolinas, Inc., upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia and is authorized to conduct business in this state. It was formerly known as John Wieland Homes and Neighborhoods, Inc.

18. Defendant Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc. is a foreign corporation organized and existing under the laws of the State of Delaware which describes its business as that of real estate investments and is authorized to conduct business in this state. It is a joint venture formed in November 2012 with the Wieland Defendants where John Wieland Homes and Neighborhoods, Inc. sold to Wheelock Street Capital.

19. Defendant Wheelock Street Real Estate Fund, LP is a limited partnership between Wheelock Street Capital, LLC and other entities organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

20. Defendant Wheelock Street Investment Management, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

21. Defendant RP Falcon Properties, LLC, formerly known as JW Homes, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

22. Defendant Residential Partners, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

23. Defendant Middlesex Holdings, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

24. Defendant WS JWH, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

25. Defendant JWC Phoenix, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

26. Defendant Bridgemill Land, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

27. Defendant Annisquam Development, LLC, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina.

28. Defendant JW Land Investment, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in South Carolina. It is currently known as RP Falcon Land, LLC.

29. Defendant JWC Guilford, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

30. Defendant OOTB, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

31. Defendant Wieland Realty Associates, Inc., also known as JW Realty Associates, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

32. Defendant Wheelock Street Real Estate Fund II, LP, previously identified as Jane Doe 30, is a limited partnership organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

33. Defendant Wheelock Street Real Estate Fund V, LP, previously identified as Jane Doe 31, is a limited partnership organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

34. Defendant WSREF NRT, LLC, previously identified as Jane Doe 32, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

35. Defendant JW Homes, LLC, previously identified as Jane Doe 33, upon information and belief, was a foreign corporation organized and existing under the laws of the

State of Delaware, which transacted business in the State of South Carolina. It is currently known as RP Falcon Properties, LLC.

36. Defendant JWH RPIV, LLC previously identified as Jane Doe 34, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

37. Defendant RP Falcon Land, LLC f/k/a JW Land Investment, LLC, previously identified as Jane Doe 35, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

38. Defendant Wieland Realty, LLC a/k/a RP Falcon Realty, LLC, previously identified as Jane Doe 36, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

39. Defendant RP Falcon Realty, LLC f/k/a Wieland Realty, LLC previously identified as Jane Doe 37, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

40. Defendant Residential Partners II, LLC previously identified as Jane Doe 38, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

41. Defendant Residential Partners III, LLC previously identified as Jane Doe 39, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

42. Defendant Residential Partners IV, LLC previously identified as Jane Doe 40, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

43. Defendants Builder's Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC, Wheelock Street Real Estate Fund I, II, and V, LP, Wheelock Street Investment Management, LLC, RP Falcon Properties, LLC, Residential Partners I, II, III, and IV, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., WSREF NRT, LLC, JWH RPIV, LLC, RP Falcon Land, LLC, and Wieland Realty, LLC a/k/a Falcon Realty, LLC (hereinafter referred to as "Wieland Group"), upon information and belief were all organized in such a manner where there is or are:

(a) a substantial relationship between the transferors and transferees of assets;

(b) a retaining of benefits of the transfers for the Old Wieland entities;

(c) secrecy and concealment of terms and negotiations;

(d) circumstances leading to the conclusion that the intent was to delay and hinder creditors from obtaining satisfaction of liabilities;

(e) evidence that the Wieland Group are mere successors in interest and a continuation of the Old Wieland Entities; and

(f) evidence that the entities were operated in such a manner where distinctions between the entities are blurred and should be amalgamated for purposes of judgment.

44. Defendant John Wieland, upon information and belief, is an individual with his primary place of domicile in the State of Georgia. Wieland was the founder, owner, controller, and public face of the above Wieland Entities.

45. Defendant Sue Wieland is the wife of Defendant John Wieland. Upon information and belief, Sue Wieland's place of domicile is in the State of Georgia.

46. Defendants Lindsey Parker and Jack Wieland are the daughter and son of John and Sue Wieland, and Defendant Robert Parker is the son-in-law of John and Sue Wieland. Upon information and belief, Jack Wieland's place of domicile is in the State of Georgia; Robert and Lindsey Parker's place of domicile is in Massachusetts.

47. Defendants John Wieland, Sue Wieland, Jack Wieland, Robert and Lindsey Parker (hereinafter referred to as "Wieland Family") all owned and controlled the Old Wieland Entities. Also, upon information and belief, the Wieland Family own and control the Wieland Group.

48. The Wieland Entities and Wieland Family held, owned, controlled, and/or held additional real estate inventory in additional single purpose entities (SPE) (hereinafter referred to as "Wieland SPE affiliates").

49. The Wieland SPE affiliates were publicly owned and controlled in the names of Sue Wieland and/or Robert Parker.

50. The use of Wieland SPE affiliates and Wieland Group was for the purpose of hindering the creditors of the Old Wieland Entities.

51. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the asset sale to Defendant Residential Partners which, upon information and belief, is owned and controlled by the Wieland Family.

52. Defendant Jorge Medina, individually and d/b/a JMC Construction, LLC a/k/a JMC Construction, Inc. (hereinafter referred to as "JMC"), upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, JMC performed siding, cornice, trim and roofing labor.

53. Upon information and belief, John Does 20-50 and Jane Does 41-50 are individuals or entities organized pursuant to the laws of the State of South Carolina or other states. At all times relevant herein, John Does 20-50 and Jane Does 41-50 were engaged in the business of selling, constructing homes, renovating, supplying products materials and/or services to that end in Charleston, South Carolina.

54. Defendant AC Construction, Inc. previously identified as Jane Doe 1, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. At all times relevant to this action, AC Construction, Inc. performed roofing and framing work at the subject property, in Charleston County, South Carolina.

55. Defendant Scott Parker (hereinafter referred to as "Parker") previously identified as John Doe 1, upon information and belief, is a General Contractor licensed in the State of South Carolina. Also, upon information and belief, Parker worked as a neighborhood manager for John Wieland Homes and Neighborhoods.

56. Defendant Builders FirstSource – Southeast Group, LLC previously identified as Jane Doe 2, upon information and belief, is a limited liability company organized and existing under the laws of the State of Delaware, which transacts business in South Carolina and supplied framing and roofing materials.

57. Defendant Muhler LLC a/k/a The Muhler Company, Inc. previously identified as Jane Doe 3, upon information and belief, is a domestic corporation organized and existing under the laws of the State of South Carolina and produced, supplied, and installed windows at One Hamlin Place.

58. YKK (U.S.A.), Inc. previously identified as Jane Doe 4 is a foreign corporation organized and existing under the laws of the State of New York, which transacts business in South Carolina and produced, supplied, and installed windows at One Hamlin Place.

59. Defendant Paul M. Vasquez (hereinafter referred to as "Vasquez") previously identified as John Doe 2, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Vasquez supplied, sold, and installed windows and doors, together with all associated and related waterproofings and flashings, and other work at the subject property.

60. Defendant Neighborhood Management Associates, Inc. previously identified as Jane Doe 5, upon information and belief, is a corporation organized and existing under the laws of the State of Georgia. Also, upon information and belief, Neighborhood Management Associates served as the property management company for One Hamlin Place.

61. Defendants Billie and Antonio Arias d/b/a Antonio Arias Framing Construction (hereinafter referred to as "Arias") previously identified as John Doe 3, upon information and belief, are contractors licensed in the state of South Carolina. Also, upon information and belief, Arias performed framing and related labor at One Hamlin Place.

62. Defendant Tru-Don Contracting, Inc. (hereinafter referred to as "Tru-Don") previously identified as Jane Doe 6, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Tru-Don performed roofing and related framing work at One Hamlin Place.

63. Defendant Fine Builders, LLC previously identified as Jane Doe 7 (hereinafter referred to as "Fine"), upon information and belief, is a limited liability company organized and

existing under the laws of the State of South Carolina. Also, upon information and belief, Fine performed framing and related labor on townhomes at One Hamlin Place.

64. Defendant Jose Alfredo Sandoval (hereinafter referred to as "Sandoval") previously identified as John Doe 4, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Sandoval performed framing and related labor on townhomes at One Hamlin Place.

65. Defendant Chad Larsen d/b/a Chad Larsen Co. (hereinafter referred to as "Larsen") previously identified as John Doe 5, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Larson performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

66. Defendant Ivan Jose Paiz d/b/a Jose Construction (hereinafter referred to as "Jose") previously identified as John Doe 6, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Jose performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

67. Defendant William B. Angel (hereinafter referred to as "Angel") previously identified as John Doe 7, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Angel performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

68. Defendant East Coast Wall Systems, Inc. (hereinafter referred to as "East Coast") previously identified as Jane Doe 8, upon information and belief, is a corporation organized and existing under the laws of the State of North Carolina. Also, under information and belief, East Coast performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

69. Defendant Tracyinne Construction a/k/a T&C Construction, LLC (hereinafter referred to as "T&C") previously identified as Jane Doe 9, upon information and belief is a limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, T&C performed framing labor on townhomes at One Hamlin Place.

70. Defendants Frankcisco and Andrea Dacosta individually and d/b/a AAA Coastline, Inc. (hereinafter referred to as "AAA") previously identified as John Doe 8 and Jane Does 10-11, respectively, upon information and belief, are licensed contractors and operating and existing as a corporation under the laws of the State of South Carolina. Also, upon information and belief, AAA performed framing and related labor on townhomes at One Hamlin Place.

71. Defendant Jack R. Clark individually d/b/a Jack Clark Construction LLC (hereinafter referred to as "Clark") previously identified as John Doe 9, upon information and belief is a licensed South Carolina contractor operating and existing as a limited liability company under the laws of the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

72. Defendant Alex Welch (hereinafter referred to as "Welch") previously identified as John Doe 10, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Welch performed framing and related labor on townhomes at One Hamlin Place.

73. Defendant Tracy McCuiston d/b/a Mastercraft Interior and Exterior (hereinafter referred to as "Mastercraft") previously identified as John Doe 11, upon information and belief,

is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mastercraft performed framing and related labor on townhomes at One Hamlin Place.

74. Defendant Universal Forest Products (hereinafter referred to as "Universal") previously identified as Jane Doe 12, upon information and belief, is a corporation organized and existing under the laws of the State of Minnesota. Also, upon information and belief, Universal performed framing and related labor on townhomes at One Hamlin Place.

75. Defendant Gonzalo Guerrero (hereinafter referred to as "Guerrero") previously identified as John Doe 12, upon information and belief, is a contractor licensed in the State of South Carolina. Also, under information and belief, Guerrero performed framing, sheetrock, fireproofing, siding, trim, and related flashing and caulking labor on townhomes at One Hamlin Place.

76. Defendant A-Marc, Inc. (hereinafter referred to as "A-Marc") previously identified as Jane Doe 13, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, A-Marc performed framing, sheetrock, fireproofing, and all related labor on townhomes at One Hamlin Place.

77. Defendant Emmanuel Kehagis d/b/a Creative Construction (hereinafter referred to as "Creative") previously identified as John Doe 13, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Creative performed framing and related labor on townhomes at One Hamlin Place.

78. Defendant Anthony Kirksey (hereinafter referred to as "Kirksey") previously identified as John Doe 14, upon information and belief, is a contractor licensed in the State of

South Carolina. Also, upon information and belief, Kirksey performed framing and related labor on townhomes at One Hamlin Place.

79. Defendant Polly S. Clark d/b/a Glenn Clark Construction (hereinafter referred to as "Clark") previously identified as Jane Doe 14, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

80. Defendant Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC (hereinafter referred to as "Mora") previously identified as Jane Doe 15, upon information and belief is a contractor licensed in the State of South Carolina operating and existing as a South Carolina corporation. Also, upon information and belief, Mora performed roofing, masonry, and related flashing and caulking labor on townhomes at One Hamlin Place.

81. Defendant Daniel L. Rogers d/b/a Dan Rogers Roofing, LLC (hereinafter referred to as "Rogers") previously identified as Jane Doe 16, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Rogers performed roofing and related flashing and caulking labor on townhomes at One Hamlin Place.

82. Defendant William C. Mulhern d/b/a Bill's Painting (hereinafter referred to as "Mulhern") previously identified as Jane Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mulhern performed sheetrock, fireproofing, painting, sealant installation, and related labor on townhomes at One Hamlin Place.

83. Defendant Mark A. McFarland individually and d/b/a In the Wind, Inc. (hereinafter referred to as "In the Wind") previously identified as John Doe 15 and Jane Doe 18, respectively, upon information and belief, is a contractor licensed in the State of South Carolina and operating and existing as a South Carolina corporation. Also, upon information and belief, In the Wind performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

84. Defendant Harbor Master, Inc. previously identified as Jane Doe 19, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Harbor Master, Inc. performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

85. Defendant Chad Hood (hereinafter referred to as "Hood") previously identified as John Doe 16, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Hood performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

86. Defendant Kinco Ltd. a/k/a Kinco Inc. (hereinafter referred to as "Kinco") previously identified as Jane Doe 20, upon information and belief, is a Florida corporation organized and existing under the laws of the State of Florida. Also, under information and belief, Kinco manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

87. Defendant Atrium Companies, Inc. d/b/a Atrium Windows and Doors a/k/a HR Windows previously identified as Jane Doe 21 (hereinafter referred to as "Atrium"), upon information and belief, is a corporation organized and existing under the laws of the State of Delaware. Also, under information and belief, Atrium manufactured, supplied, retailed, and

installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

88. Defendant The Contractor Yard, Inc. (hereinafter referred to as "Contractor Yard") previously identified as Jane Doe 22, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Contractor Yard manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

89. Defendant New Construction Drywall Hanger, LLC (hereinafter referred to as "Drywall Hanger") previously identified as Jane Doe 23, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, Drywall Hanger performed framing, drywall, sheetrock, fireproofing, and related labor.

90. Defendant Doug Pilcher (hereinafter referred to as "Pilcher") previously identified as John Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Pilcher worked as a builder for John Wieland Homes and Neighborhoods at One Hamlin Place.

91. Defendant Michael Cassidy (hereinafter referred to as "Cassidy") previously identified as John Doe 18, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Cassidy worked as a quality manager for John Wieland Homes and Neighborhoods at One Hamlin Place.

92. Defendant DBC Construction Services, LLC (hereinafter referred to as "DBC") previously identified as Jane Doe 24, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also,

upon information and belief, DBC performed roofing and all related waterproofing and flashing work on townhomes at One Hamlin Place.

93. Defendant Gerardo Rosette Sanchez, doing business as GR Painting (hereinafter referred to as "GR") previously identified as Jane Doe 25, upon information and belief is a contractor licensed to do business in South Carolina. Also, upon information and belief, GR performed exterior painting services and all related waterproofing, caulking, and flashing work on townhomes at One Hamlin Plantation.

94. Defendant Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC previously identified as Jane Doe 26 (hereinafter referred to as J. Mora), upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, J. Mora performed brick masonry and foundation work along with all related waterproofing, caulking, and flashing on townhomes at One Hamlin Place.

95. Defendant Juan Luis Sanchez a/k/a Sanchez Brothers Painting previously identified as Jane Doe 27, upon information and belief, is a contractor licensed to do business in South Carolina.

96. Defendant Latitude Construction Services, LLC (hereinafter referred to as "Latitude") previously identified as Jane Doe 28, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, Latitude performed porch and balcony waterproofing along with all related flashing and caulking on townhomes at One Hamlin Place.

97. Defendant Richard Ditullio a/k/a RDT Contracting, LLC (hereinafter referred to as "RDT") previously identified as Jane Doe 29, upon information and belief is a contractor

licensed to do business in South Carolina and operates as a South Carolina limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, RDT performed roofing and all related waterproofing, flashing, and caulking labor.

98. Defendant Valencia Medina, individually previously identified as John Doe 19, upon information and belief, is an agent of JMC Construction, LLC a/k/a JMC Construction, Inc. Also, upon information and belief, Valencia Medina by and through JMC performed framing, siding, cornice, trim and roofing labor.

99. Defendant J & R Construction, LLC a/k/a JJ&R Construction, LLC, previously identified as Jane Doe 41, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina, and provided materials and performed work on the subject residences.

100. Defendant Cohen's Drywall Company, LLC, previously identified as Jane Doe 42, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina, and provided materials and performed work on the subject residences.

101. Defendant All American Roofing and Construction, LLC, previously identified as Jane Doe 43, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in the State of South Carolina, and provided materials and performed work on the subject residences.

102. Defendant Leor Construction LLC, previously identified as Jane Doe 44, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Florida, which transacts business in the State of South Carolina, and provided materials and performed work on the subject residences.

103. Upon information and belief, the Wieland Defendants were, in various capacities, individually and collectively engaged in the planning and developing of the Project, and contracted with various entities for the design and construction of the Project.

104. Upon information and belief, one or more of the Wieland Defendants were merged into one or more of the John Wieland Homes and Neighborhoods of South Carolina, Inc. and John Wieland Homes and Neighborhoods, Inc. with the intent to carry on the business of the Wieland Defendants in connection with the Project.

105. Wheelock Street Capital, LLC (hereinafter referred to as Wheelock) d/b/a John Wieland Homes and Neighborhoods, Inc., is a joint venture with the Wieland Defendants formed in November 2012.

106. Upon information and belief, the ownership of the Project was maintained uninterrupted by the Wieland Defendants during and following the aforementioned merger activities, resulting in ownership and/or control of the Project by the resulting merged entity (the resulting merged entity, including all of the affiliated, subsidiary, or other merged component entities, shall hereinafter be referred to collectively as the "Developer Defendants" and/or "Wieland Defendants").

107. The original developers, John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., and Builder Support Services of the Carolinas, Inc., and JW Homes, LLC shall hereinafter be referred to collectively as the "Original Developer Defendants".

108. The Developer Defendants are all Variable Interest Entities of (as defined by the Financial Accounting Standards Board, among other institutions and authorities) subsidiaries of,

parents of, partners of, associates of, agents of, affiliated with, joint venturers, servants, instrumentalities and/or alter ego entities of each other and are responsible to the Plaintiffs herein for the condition of the Project and the damages set forth herein below.

109. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities, during the development of the Project and immediately after sale of the townhomes to members of the public, sought and established a special relationship with the purchasers of the townhomes, and the Developer Defendants, at various times during and after the construction of the townhomes, breached their fiduciary duties to the purchasers in that the Developer Defendants owed dual and conflicting loyalties to themselves, to the Contractor Defendants as set forth below, to the purchasers of the townhomes, to the Association established in the Master Deed for the construction of the Project, and to the Plaintiffs.

110. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities had irreconcilable conflicts of interest by virtue of the dual and conflicting loyalties they owed to themselves and to the purchasers and/or tenants of the Project along with the Association established in the Master Deed for the townhomes and the Plaintiffs, all of whose interests were diverse and adverse, one to the other and, as such, the Developer Defendants did not act in good faith or in a manner they could reasonably believe to be in or not opposed to the best interests of the purchasers and/or tenants of the Project along with the Association established in the Master Deed for the townhomes and the Plaintiffs.

111. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities, all participated in self-

dealing by promoting their own interests through sacrificing the interests of the purchasers of the Project.

112. In connection with the Project, the Developer Defendants all became and/or acted as subsidiaries, parents, partners, associates, agents, affiliate, co-joint venturers, servants, instrumentalities and/or alter ego entities of each other and are responsible to the Plaintiffs herein for the condition of the Project and the damages set forth herein.

113. The Developer Defendants conducted business in connection with the Project by and through the use and control of subservient entities, and all of these entities in fact manifested no separate interest of their own, and demonstrated an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between any members of that group of corporations, shareholders, officers, agents, partners, employees, and assets.

114. The Defendants listed above, including Paul Vasquez; Muhler; YKK; Neighborhood Management Associates, Inc.; Antonio Arias Framing; Jorge Medina and Valencia Media d/b/a JMC Construction; Tru-Don Contracting, Inc; Fine Builders, LLC; Jose Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Paiz d/b/a Jose Construction; William Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuistan d/b/a Master Craft Interior and Exterior; Universal Forest Products Eastern Division Inc. a/k/a UFP Eastern Division Inc.; Gonzalo Guerrero; A-Marc, Inc.; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly Clark d/b/a Glenn Clark Construction; Benjamin Mora; Daniel L. Rogers d/b/a Dan Rogers Roofing LLC; William C. Mulhern d/b/a Bill's Painting; Harbor Master, Inc.; Chad Hood; Kinco Ltd. d/b/a Kinco, Inc.; Atrium Companies Inc. d/b/a Atrium Windows and Doors a/k/a HR

Windows; Contractor Yard, Inc.; New Construction Drywall Hanger, LLC; DBC Construction Services, LLC; Gerardo Rosette Sanchez d/b/a GR Painting; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Latitude Construction Services, LLC; and Richard Ditullio a/k/a RDT Contracting, LLC (hereinafter referred to collectively as the "Contractor Defendants") provided labor, materials, goods, and services in connection with the construction of the One Hamlin Place Project as contractors, subcontractors, consultants, or independent contractors, or which manufactured, fabricated, and/or otherwise provided construction and building materials, equipment and goods for use in connection with the construction of the Project; and these entities provided labor, materials, goods, and services associated with the original construction of the Project, and the work of each of these defendants was deficient and defective and resulted in damages to the Plaintiffs as set forth below.

115. All Defendants were instrumental in carrying out duties and actions relating to the construction of the Project, and each of these defendants had independent duties under South Carolina law to perform their duties in a good and workmanlike manner and in accordance with applicable building codes and accepted building practices.

JURISDICTION

116. Personal jurisdiction is vested and exists in the Court of Common Pleas, County of Charleston, State of South Carolina, and venue is proper in the County of Charleston, State of South Carolina, by virtue of, among other things, the fact that the property which is the subject matter of the Complaint is located in Mt. Pleasant, South Carolina, and the great majority of the activities relating to the Project and the claims herein occurred in this jurisdiction.

WIELAND TRANSACTIONAL BACKGROUND

117. Defendants negotiated a transfer of substantially all assets owned and/or controlled by the Wieland Entities and the Wieland Family to new entities that were jointly owned by Wheelock and the Wieland Family. Ultimately, Wheelock and the Wieland Family reaped a windfall by selling the assets to a third party.

118. It is clear that the Defendants employed a sophisticated scheme to first "launder" and then sell the assets of the John Wieland Homebuilding Enterprises. While the discrete steps of the scheme are less clear, Plaintiffs will set out the currently known facts.

(The 2009 Transactions)

119. The siphoning of valuable assets began as early as 2009. Defendant Robert Parker orchestrated a December 30, 2009 transaction by which 128+ acres in the Bridgemill subdivision (Lancaster County, South Carolina) were sold by John Wieland Homes and Neighborhoods of the Carolinas, Inc. to OOTB, a company run by William Mitchell, a one-time member of Wieland's board of directors. The Defendants' intention was for OOTB to hold the land and eventually sell it back to the evolving Wieland entities.

120. OOTB reportedly paid Two-Million Dollars ($2,000,000.00) for the Bridgemill land. A year later, in December of 2010, OOTB sold the 128 acres to Annisquam for One-Dollar ($1.00). Annisquam is controlled by John Wieland's immediate family. Next, Annisquam transferred to JW Homes a portion of the 128+ acres it had purchased for One-Dollar ($1.00). The affidavit of consideration for that transfer valued the property at over Seven-Million Five-Hundred and Fifty-Four Thousand Dollars ($7,554,000.00).

121. In a nutshell, the Annisquam/OOTB transaction involved the first *KNOWN* diversion of assets from John Wieland Homes and Neighborhoods of the Carolinas, Inc. to the Wieland Family personally, with the assets ultimately being re-routed into Wheelock.

122. OOTB and Annisquam were created to facilitate the Wieland Family's scheme to remove assets from the reach of creditors.

(The 2012 Transactions)

123. In the fall of 2012, several new corporate entities were created. Residential Partners was formed, or caused to be formed, by Wheelock. JW Homes was formed, or caused to be formed, by Wheelock and/or Residential Partners.

124. JW Land, JWC Phoenix, Middlesex, JWC Guilford were also created in the fall of 2012.

125. Defendants Robert and Lindsey Parker are the sole members and owners of Middlesex.

126. Middlesex is the majority owner of JWC Phoenix.

127. The balance of JWC Phoenix is owned by Defendant Jack Wieland.

128. JWC Phoenix owns a minority interest in Residential Partners.

129. On or about November 15, 2012, the Old Wieland Entities and the Wieland Family transferred the John Wieland Homebuilding Enterprise to an amalgamation of JW Homes, Residential Partners, Wheelock and others. This transfer included the assets, business, intellectual property, goodwill, management, employees, intellectual property rights contracts, real estate inventory, and substantially all of the ongoing business assets of the Old Wieland Entities and affiliates.

130. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the 2012 Transactions.

131. The 2012 Transactions resulted in a joint venture, or *de facto* merger. They involved the Defendants successfully convincing Bank of America, a major lender to the Wieland Entities, to accept less than it was owed, essentially a short sale.

132. The 2012 Transactions represented the sale of substantially all of the homebuilding assets and related intellectual property of the Old Wieland Entities to a new joint venture, a partnership between the Wieland Family and Wheelock.

133. This new partnership carried forward the John Wieland Homes brand and deployed significant new capital resources to drive growth of one of the industry's most well-known names. Included in the transactions were approximately 300 homes and over 5,000 lots in high quality neighborhoods across the Southeast.

134. Defendant John Wieland served as the new company's chairman, directing strategy and providing leadership, vision and support for the new joint venture.

135. The Wieland Family retained their equity and profit interests and substantial control by swapping indirect interests in the pre-November 15, 2012 John Wieland Homebuilding Enterprise for indirect interests (and disproportionately large profit interests) in the post-November 15, 2012 John Wieland Homebuilding Enterprise.

136. JW Homes was the operating company for the new partnerships after the 2012 Transactions. There was no visible difference for the public to see between Builders Support and Residential Partners. JW Homes advertised, as the purchaser of the John Wieland Homebuilding Enterprise, that the business had 40 years of existence. JW Homes, part of Wheelock, presented itself as the entity responsible for Waverly. JW Homes, as part of Wheelock, took over the home

construction business of the Wieland entity that built Waverly. When Residential Partners/JW Homes bought Builders Supply, nothing about the operation changed.

137. The Defendants functioned as an integrated whole, transferring assets from the Wieland operating entities to newly formed entities at unfairly low prices.

(The Operation of the Enterprise after the 2012 Transactions)

138. After the 2012 Transactions, the John Wieland Homebuilding Enterprise continued unabated, selling approximately 500 residences per year at an average sales price of approximately $450,000.00 per residence, resulting in average annual sales of approximately $22.5 million or better. Upon information and belief, this yielded profits before taxes and interest of approximately $4.0 million per year or more.

139. The operation of the Wieland Homebuilding Enterprise remained virtually unchanged.

140. The new entities, which remained under substantial control by the Wieland Family, advertised and promoted their forty years of homebuilding experience, even though all the new entities were created in the fall of 2012. On its website, JW Homes claims to have been founded in 1970.

141. JW Homes was in fact a continuation of, and a successor to, the entities that operated the John Wieland Homebuilding Enterprise prior to November 15, 2012:

a. JW Homes operated the John Wieland Homebuilding Enterprise under the "John Wieland" tradename;

b. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same employees;

c. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same management personnel;

d. JW Homes continued Wieland Homebuilding Enterprise with one or more

of the same Board members and/or executive personnel;

e. JW Homes occupied the same corporate office as the Wieland Entities did prior to the 2012 Transactions;

f. JW Homes maintained the same telephone numbers as the Wieland did prior to the 2012 Transactions;

g. JW Homes maintained the same internet and email domain ("jwhomes.com") as the Wieland did prior to the 2012 Transactions;

h. JW Homes continued to market itself utilizing the reputation, awards, experience, and history of Wieland and the Wieland Entities;

i. JW Homes continued to use John Wieland's mantra "enduring core values, known as EPIC: Excellence, Passion, Presentation, Integrity, Completeness".

j. JW Homes continued the John Wieland Homebuilding Enterprise in the same locations in which Wieland previously operated;

k. JW Homes possessed the corporate records of the Old Wieland entities; and

l. Residential Partners and JW Homes expressly assumed most of the warranty obligations of the Wieland Entities.

142. The Wieland Family continued to avail itself of the benefits of the Wieland Homebuilding Enterprise while concealing its continued participation from the public, Plaintiffs included.

143. The Wieland Entities were subsumed by JW Homes, Wheelock, and Residential Partners at the time of the 2012 Transactions.

144. Upon information and belief, The Old Wieland Entities have defended over one hundred (100) lawsuits claiming defective construction in Charleston County and many more elsewhere.

145. Defendants knew of the Wieland Entities' long history of defective construction.

(Effect on One Hamlin Place Owners)

146. Defendants knowingly and willfully stripped the Wieland Entities of assets and left Wieland with no assets available to compensate their prior clients for defectively constructed homes and/or to rectify the defects.

147. The Wieland-Wheelock interests diverted the key assets out of the Wieland operating companies, including their goodwill, leaving behind judgment-proof corporate shells to be "responsible" for Wieland's defective construction.

148. These corporate entity manipulations, calculated to divert value to Wieland's owners while leaving behind judgment-proof entities, occurred at a time when the Defendants were acutely aware that their construction activities in Charleston were grossly deficient.

149. Plaintiffs have been deprived of recourse and repair monies for their defective homes.

150. Plaintiffs have further had to endure substandard and potentially dangerous living conditions, delays in repairs, and loss of the value of their equity in their homes.

151. For most class members, these townhomes constitute their most significant asset, currently and in retirement, and the impairment of this asset and lack of repair funds causes the Plaintiff class financial stress.

152. Plaintiffs are incurring increased expenses for temporary repairs while the permanent resolution is delayed by Defendants' activities.

153. The Association's reserves are being depleted by the foregoing, and Plaintiff class members are facing higher regime fees and/or future assessments as a result.

FACTUAL BACKGROUND

154. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if fully set forth herein verbatim.

155. Plaintiffs are informed and believe that the Developer Defendants engaged contractors to construct the Project including 105 properties, and related facilities and amenities, collectively known as One Hamlin Place Townhomes, which were thereafter substantially completed, and contained various buildings. The Developer Defendants, by and through various instrumentalities and alter-egos and other Defendants were the original developers of the Project and/or are liable for the actions of the original Developer of the project.

156. The Developer Defendants created and controlled numerous and various entities including, but not limited to, the John Wieland Homes and Neighborhoods of South Carolina, Inc., Builder Support Services of the Carolinas, and Wieland Defendants set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and leasing of the townhomes that were known as One Hamlin Place Townhomes. The Developer Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities were merely a facade for the operations of the Developer Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between the Developer Defendants and the sham entities, shareholders, officers, agents, partners, employees, assets, and each of them.

157. By way of example, the Wieland Defendants included entities which were created to perform single purpose functions in order to effectuate the sole will of the Developer Defendants in purchasing, developing, leasing, and/or selling the homes. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, the Developer Defendants and the Individual Developer Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

158. The sham entities established by the Developer Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of the Developer Defendants, the Developer Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or the Developer Defendants directly contracted for the sham entities in the name of the Developer Defendants.

159. The Developer Defendants directed and oversaw those listed as Defendants herein and contractors including the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

160. The Developer Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

161. There would exist a broad element of injustice and fundamental unfairness of the acts of the Developer Defendants, and each of them individually, were not regarded as the acts of one another.

162. The Defendants began the process of constructing the townhomes by engaging and directing the actions of the various contractors and/or subcontractors named as Defendants herein, and participated in the negligent, deficient, and shoddy workmanship which ignored and/or covered up design and construction defects then in existence and, thereafter, placed the units into the stream of commerce for sale, which they did sell to the general public and, in particular, to the current owners who are members of the Association.

163. The Developer Defendants, by and through their instrumentalities and alter-ego entities, controlled and operated the Association and its Board of Directors prior to turning over control of the One Hamlin Association. During this period, the Developer Defendants attempted to carry out construction prior to, during and after the time they offered and sold said townhome units. This work was attempted to be performed by contractors engaged by the Developer Defendants for the purpose of expediting the sales process and was calculated for the purpose of, or through careless, reckless, negligent and grossly negligent conduct by the Developer Defendants, resulting in the concealing, fabricating, patching, hiding, and/or cloaking of the deficiencies and damage known, both actually and constructively, to the Developer Defendants and/or their affiliates, subservient entities, agents, and assigns.

164. At the time the units were offered for sale and placed into the stream of commerce by the Developer Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of the Developer Defendants.

165. The Developer Defendants and the Contractor Defendants, and each and every other above-captioned Defendant knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

166. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

167. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

168. The Plaintiffs suffered damages when the Developer Defendants put these units into the stream of commerce and continue to be damaged through the date of this filing.

169. The Developer Defendants failed to make a sufficient inquiry into the conditions of the Project in order to establish adequate financial reserves for maintenance and repair of the Project, and instead provided inaccurate and misleading information to third-parties in the research and establishment of the reserve figures, and thereby provided inaccurate and

misleading reserve requirements and related information to the general public, prospective purchasers, and to the Plaintiffs, both before and after tendering control of the Association and the common elements to the homeowners, all resulting in damages to the Plaintiffs and in violation of South Carolina law, the Master Deed, and the By-laws.

170. The Developer Defendants controlled and managed the Association and its Board of Directors through the use of its subservient entities prior to the tender of the control over the Association to the unit owners; and the Developer Defendants negligently failed to provide sufficient and reasonable information and resources for the proper management and maintenance of the Project; and in fact negligently provided insufficient, inaccurate, and misleading information and prevented the use of financial and other resources required for the proper management and maintenance of the Project, all of which resulted in continued and exacerbated damages to the Project and suffered by the Plaintiffs.

171. The Developer Defendants were engaged in a joint venture, partnership, or other legal or de facto relationship with each other.

172. The Developer Defendants caused, directed, participated in, or acted in willful, reckless, heedless, negligent and grossly negligent disregard of their collective and respective acts and omissions in the planning, development, design, construction, management and sale of the units in the Project, all as more fully described herein.

173. The Developer Defendants represented to the public over the internet and through various publications and other media that they, by and through their various affiliates, entities, venturers, and agents referenced herein, were qualified, experienced, and would in fact be directing, managing, and otherwise facilitating the construction and selling of the units, and these representations were relied upon by the Plaintiffs.

174. Prior to and until transferring control of the One Hamlin Association to the unit owners and a newly elected Board of Directors comprised of unit owners, the Developer Defendants, through their subservient and affiliated entities, employees, and agents, had a duty to serve as Board members and to conduct the business of the One Hamlin Association, had authority and control over, and in fact controlled and directed the One Hamlin Association Board of Directors and dictated all of the Board's activities.

175. In conjunction therewith, the Developer Defendants in their capacity as Board members and otherwise, in a negligent manner, carelessly, willfully, wantonly, and with reckless disregard for the rights of the Plaintiffs, participated in, acquiesced in and caused the wrongful acts and omissions described herein.

176. These collective and respective wrongful acts and omissions of the Developer Defendants and such other Defendants as set forth in the causes of action below, represent unfair trade practices and have resulted in substantial deterioration and/or failure of structures and building systems, building deficiencies, actual, incidental, special and consequential damages and loss of use. Remedying the above wrongful acts will result in actual, incidental, consequential, and special damages including loss of use to the Plaintiffs and its members, and entitle Plaintiffs and its members to punitive damages and attorney's fees. Further, these wrongful acts and omissions have directly and proximately caused substantial diminution in value, both pre- and post-repair.

177. The acts and omissions of the Defendants were contrary to the duties they owed, individually and collectively, to the Plaintiffs and actually caused damages to the Plaintiffs including, but not limited to, damages which did not result from the acts and omissions of other

defendants and including, but not limited to, damages other than damages which resulted in physical injury or damage to tangible real and personal property in connection with this Project.

FOR A FIRST CAUSE OF ACTION
Violation of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, *et seq.*
(Against All Defendants, Except by Original Purchasers Against Original Developers)

178. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

179. Plaintiffs and the Defendants are "persons" within the meaning of S.C. Code § 39-5-10(a).

180. The Defendants, by developing, marketing and constructing the subject Residences, were engaged in commerce within the meaning of S.C. Code § 39-5-10(b).

181. The Defendants' actions, described hereinabove, constitute unfair and deceptive practices within the meaning of S.C. Code § 39-5-20(a).

182. The Defendants' acts are capable of repetition, and, upon information and belief, have been repeated.

183. The Defendants' conduct affects the public interest of South Carolina.

184. The Defendants knew, or reasonably should have known, that their conduct violated the Unfair Trade Practices Act.

185. As a direct foreseeable and proximate result of the Defendants' unfair and deceptive practices, Plaintiffs have suffered an ascertainable loss of money and property.

186. Plaintiffs are entitled to recover its actual damages, which amount should be trebled, together with interest and attorney's fees.

FOR A SECOND CAUSE OF ACTION
Breach of Implied Warranty
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

187. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if fully set forth herein verbatim.

188. The design, construction, development and sale of the units by these Defendants contained as a matter of law implied warranties of good faith and fair dealing, fitness for use merchantability, habitability, and workmanship with respect to construction, which warranties were not effectively disclaimed under South Carolina law.

189. The Developer Defendants, whether named or unnamed on the Deeds of Transfer, through their acts and/or omissions, have breached the aforesaid implied warranties, which directly, actually, and proximately caused and resulted in damage which the Plaintiffs have suffered and continues to suffer in an amount to be determined by the trier of fact.

190. These Defendants are therefore liable to the Plaintiffs for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A THIRD CAUSE OF ACTION
Breach of implied Warranty of Fitness of Habitability
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

191. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

192. That the Defendants impliedly warranted as a matter of law that the subject Residences which they built were habitable and fit for their intended uses.

193. That this implied warranty was breached by the Defendants and the work was performed in a manner below ordinary workmanship and the subject Residences were neither habitable nor fit for their intended use causing damage to Plaintiffs.

FOR A FOURTH CAUSE OF ACTION
Breach of Implied Warranty of Fitness for Particular Purpose
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

194. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

195. The Defendants had the duty to develop, market and construct the subject Residences according to industry standards and in a good and workmanlike manner, and an implied warranty of fitness attached to the sales of these homes.

196. At the time of the sale of the subject Residences to the Plaintiffs, the Defendants had reason to know if any or all parts of the construction of the subject residences were not completed according to industry standards and in a good workmanship manner.

197. The Defendants, at the time of the sale of the subject Residences to the Plaintiffs, had reason to know that the Plaintiffs were relying on the skill and/or judgment of the Defendants to properly construct the homes and adjacent facilities according to industry standards and in a good and workmanlike manner. Plaintiffs, in fact, relied on the Defendants' skill and judgment.

198. The Defendants did not properly construct the subject homes and facilities according to industry standards and in a good and workmanlike manner, causing major defects to One Hamlin Place Townhomes.

199. As a result of the Defendants' breach of its implied warranties, Plaintiffs have suffered physical damages.

FOR A FIFTH CAUSE OF ACTION
Breach of Implied Warranties as to the Project's Development and Construction (Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

200. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

201. These Defendants engaged in conduct during the period of development and construction of the Project which gave rise to duties and implied warranties to the public including, but not limited to, tenants, purchasers and other users of the Project, in that by their conduct these Defendants placed the Project, which constitutes defective, deleterious, and dangerous property, into the stream of commerce.

202. The placement of the Project into the stream of commerce by these Defendants, contained as a matter of law implied warranties of fitness, merchantability, workmanship and habitability, which warranties were not effectively disclaimed pursuant to South Carolina law.

203. As a direct and proximate result of the breaches of the above-described implied warranties by these Defendants, their affiliates, associates, sham entities, and/or joint venturers, whether named or unnamed on any documents transferring interest in the Project, the Plaintiffs have suffered and will continue to suffer damages, injuries and other losses.

204. These Defendants are therefore liable to the Plaintiffs for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SIXTH CAUSE OF ACTION
Negligence, Professional Negligence, and Gross Negligence
(Against All Defendants, Except by Original Purchasers Against Original Developers)

205. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

206. Defendants, and each of them, owed a duty to Plaintiffs to act in a manner compliant with the reasonable standard of care, good faith, and fair dealing recognized under South Carolina law, and Defendants violated this duty to the Plaintiffs and were negligent, professionally negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars:

a) in failing to properly design, construct, develop and repair the townhomes;

b) in failing to comply with the applicable Building Codes of the County of Charleston, the City of Mount Pleasant and the State of South Carolina;

c) in failing to comply with the applicable Fire and Safety Codes of the County and of Charleston, the City of Mount Pleasant and the State of South Carolina;

d) in failing to properly design and construct the structural elements and the foundation and other elements of the Project to permit the existence of an adequate and sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

e) e) in failing to establish and maintain a sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

f) in failing to properly supervise the project developer entities and individuals, project architects and engineers, as well as contractors, subcontractors, suppliers and/or agents or employees of any of them in connection with the planning, development, design and construction of the townhomes offered for sale to the public;

g) in manufacturing, fabricating, preparing for the incorporation into a residential building, reviewing, approving, procuring, and incorporating into the

construction of this project such items which were defective, deficient, inferior, inadequate, unsafe, dangerous, inappropriate for the use intended, noncompliant with approved design or design intent, non-compliant with applicable codes and standards in the industry, and otherwise improper for use in the project including, but not limited to, HVAC systems, mechanical systems, plumbing systems, drainage systems, and sewer line systems without appropriate clean-out piping and/or other issues; electrical systems and equipment, interior and exterior drywall and other substrate and sheathing material, windows, insulation, roofing, waterproofing systems, and other building materials and supplies, finishes, and other items relating to the construction and ultimate use of this residential project;

h) in designing, constructing, marketing, selling, units and/or property with defective windows;

i) in designing, constructing, marketing, selling, units and/or properly with inadequate flashing;

j) in designing, constructing, marketing, selling, units and/or property with inadequate roofs;

k) in designing, constructing, marketing, selling, units and/or property with inadequate water barriers;

l) in designing, constructing, marketing, selling, units and/or property with without weather proof building envelopes and exteriors;

m) in designing, constructing, marketing, selling, units and/or property which were defective, deficient, inadequate, unsafe, dangerous, or otherwise non-compliant with codes and standards;

n) in placing defective and inferior construction into the stream of commerce;

o) in placing defective and inferior manufactured systems, equipment, building materials and other products into the stream of commerce.

p) in failing to permit and facilitate a proper evaluation of the condition of the Project prior to and during the process of offering units and other property for the use and sale to the general public and, further, to obstruct and/or hinder efforts to conduct a proper evaluation of the Project by intended purchasers or users;

q) in misrepresenting the condition of the units, common elements, garages and other property to prospective and actual purchasers and other users, and in making representations in negligent and/or intentional disregard of whether these representations were false or inaccurate;

r) in failing to undertake sufficient actions to develop a plan for repairs and otherwise failing to make adequate repairs to conditions at the project which were unsafe, dangerous, or otherwise not in compliance with applicable building codes or other authorities or standards of care;

s) in negligently and/or intentionally covering up deficiencies prior to construction of the units and other property for sale or use by the general public;

t) in failing to determine accurate information required, failing to disclose the absence of such information, as well as negligently and/or intentionally providing misleading and inaccurate information regarding the proper level of financial capitalization and reserve funding required for the operations, maintenance, and repairs required by the One Hamlin Association for the Project and individual unit owners;

u) in tendering common elements and other property to Plaintiffs in a deficient condition;

v) in failing to act as reasonable persons would in circumstances then and there prevailing and in such other failures as will be shown during discovery and at trial.

207. Said failures above-described, as well as the Defendants' gross negligence, willfulness, and reckless disregard for the rights of Plaintiffs and others, have actually and proximately caused damages to Plaintiffs, and the Defendants are liable to the Plaintiffs in an amount of actual, incidental, consequential, special, and punitive damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SEVENTH CAUSE OF ACTION
Negligent Misrepresentation
(Against All Defendants, Except by Original Purchasers Against Original Developers)

208. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

209. These reports and representations were actually published and presented for information to the general public by these Defendants, and these representations were actually received by, and relied upon by, the prospective and actual purchasers of the townhomes at the Project.

210. At the time of the sale of the homes and the turnover of control of the One Hamlin Place Townhome Association from the Developer Defendants to the unit owners, Plaintiffs were not aware of the falsity of the representations or the lack of investigation and lack of candor by these Defendants in connection with the reports.

211. Plaintiffs subsequently determined that the representations made by these Defendants were false and that these Defendants failed to exercise due care, not only in failing to discover defects in the project, but also in failing to communicate information about the true condition of the Project. As a result of its justifiable reliance on the representations, reports, and other documents presented by these Defendants, Plaintiffs and their members have assumed control over the Project and/or purchased units, and have thereby suffered pecuniary losses in an amount to be determined by the trier of fact.

212. As a direct and proximate result of its justifiable reliance on numerous false representations made by these Defendants in connection with the Project, Plaintiffs have suffered, and these Defendants are liable to the Plaintiffs for, actual, incidental, consequential, and special damages, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN EIGHTH CAUSE OF ACTION
Breach of Contract
(Against All Defendants, Except by Original Purchasers Against Original Developers)

213. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as fully set forth herein verbatim.

214. That the Defendants entered into a contract with the homeowners and/or predecessors-in-title, whereby the Defendants were to construct the subject homes and facilities to industry standards and in a good workmanlike proper manner.

215. The Defendants did not honor their obligations under the agreement with the Plaintiffs and/or their predecessors-in-title in that they failed to construct subject Residences according to industry standards and in a good, workmanlike proper manner causing major defects to the homes.

216. That the Defendants are in breach of the parties' contracts.

217. That as a result of the Defendants' breach of contract, the Plaintiffs have suffered and will continue to suffer and are entitled to recover monetary damages caused by the defective construction by the Defendants and for loss of use and diminution in value of the subject Residences.

FOR A NINTH CAUSE OF ACTION
Breach of Fiduciary Duty as to the Developer/Owner Defendant
(Against All Defendants, Except by Original Purchasers Against Original Developers)

218. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

219. The Developer/Owner Defendants had a fiduciary duty and duty of loyalty and good faith dealing to transfer One Hamlin Place Townhomes to the control of the Plaintiffs in a state of good repair. Defendants, having transferred elements with the defects and deficiencies

set forth above, in the alternative is required to provide the Plaintiffs with the funds necessary to bring the elements up to standard of reasonably good repair and condition.

220. Defendants breached their fiduciary duty and duty of loyalty and good faith dealing by transferring the elements in a substandard and deficient condition without the funds necessary to bring them up to standards of good repair and condition.

221. As a direct and proximate result and consequence of the Defendants' actions, Plaintiffs have suffered damages in the amount equal to the extraordinary repair, maintenance and reconstruction costs required and expended, and to be required and expended, over the expected life of the buildings and other improvements, loss of use and diminution in value.

FOR A TENTH CAUSE OF ACTION
Alter Ego Liability and Piercing the Corporate Veil
(Against Developer Defendants, Except by Original Purchasers Against Original Developers)

222. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

223. The Developer Defendants, by and through various instrumentalities and alter-egos and each other were the original developers of the Project, and the Defendants combined and joined together through various instrumentalities and alter egos to facilitate to process of building the townhome units in or about 2006-2007.

224. The Defendants created and controlled numerous and various entities including, but not limited to, the Wieland Defendants and Builder Support Services, Inc. set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and sale of the townhomes that are known as the One Hamlin Place Townhomes. The Defendants created and controlled numerous and various entities including, but not limited to, Wieland, for the sole

purpose of the building and sale of the townhomes at the Project. These Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of these Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between these Defendants and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

225. These Defendants created entities which were created to perform single purpose functions in order to effectuate the sole will of these Defendants in purchasing, developing, leasing, and/or selling the units. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, these Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

226. These Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

227. The sham entities established by these Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of

the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of these Defendants, these Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or these Defendants directly contracted for the sham entities in the name of these Defendants.

228. These Defendants directed and oversaw the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

229. There would exist a broad element of injustice and fundamental unfairness if the acts of these Defendants, and each of them individually, were not regarded as the acts of one another.

230. At the time the units were offered for sale and placed into the stream of commerce by these Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of these Defendants.

231. All Defendants knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

232. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

233. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

234. The Plaintiffs suffered damages and injuries when these Defendants put these units into the stream of commerce and continue to be damaged and injured through the date of this filing.

235. As a direct and proximate result thereof, these Defendants are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN ELEVENTH CAUSE OF ACTION
Violation of the Residential Property Condition Disclosure Act
(Against Developer Defendants, Except by Original Purchasers Against Original Developers)

236. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

237. These Defendants were engaged in a joint venture, partnership, or some other form of business venture or association including, but not limited to, the formation of a Limited Liability Company, in connection with the development and construction of the One Hamlin Place Townhomes.

238. The Developer Defendants did so place the townhome units into the stream of commerce for sale to the general public and to the members of the One Hamlin Association in particular.

239. At all times relevant to this cause of action the Developer Defendants were "owners" as that term is used within S.C. Code Ann. § 27-50-10 *et seq.,* referred to as the "South Carolina Residential Property Condition Disclosure Act" (referred to in the remainder of this cause of action as the "Act").

240. The Developer Defendants failed to furnish to the purchasers of the townhome units a written disclosure statement in conformity and compliance with S.C. Code Ann. § 27-50-40.

241. These Defendants failed to inform the sellers of the units of their obligations under the Act and had reasonable cause to suspect that the information, if any, supplied by the sellers to the individual purchasers was inherently false, incomplete, and misleading.

242. Upon information and belief, notwithstanding the above-described failures of these Defendants, and each of them, knowingly violated and/or failed to perform the duties described in § 27-50-40.

243. The nature of the defects that were undisclosed in violation of § 27-50-40, prevented and/or limited any inspection performed by the Plaintiffs to uncover or discover the said defects.

244. As a direct and proximate result of these Defendants' violations of their respective and collective duty to furnish written disclosure to the purchasers as required by§ 27-50-10, *et seq.,* the Plaintiffs have suffered, and these Defendants are liable to the Plaintiffs for actual, incidental, consequential, and special damages, along with costs, interest, and attorney's fees

pursuant to the remedies set forth in the Act, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A TWELFTH CAUSE OF ACTION
Strict Liability
(Against Developer Defendants, Except by Original Purchasers Against Original Developers)

245. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

246. Each and every townhome unit sold by these Defendants was a product within the meaning of S.C. Code Section 15-73-10, *et seq.*

247. These Defendants are and were engaged in the business of selling the aforesaid townhome units which are within the meaning of S.C. Code Section 15-73-10, *et seq.*

248. The aforesaid townhome units/products were expected to, and in fact did, reach the Plaintiffs herein as Users or Consumers without substantial change in condition in which it was sold within the meaning of Section B of S.C. Code 15-73-10, *et seq.*

249. The townhome units/products which were sold by these Defendants were at the time of sale in a defective condition, unreasonably dangerous to Plaintiffs as Users or Consumers or to the Plaintiffs' property and, as such, these Defendants are strictly liable to Plaintiffs as Users or Consumers herein for the physical harm and damage proximately caused thereby.

250. As a direct and proximate result thereof, Plaintiffs as Users or Consumers have suffered, and these Defendants are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other

waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A THIRTEENTH CAUSE OF ACTION
Individual Liability as to the Developer Defendants
(Except by Original Purchasers Against Original Developers)

251. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

252. As a direct and proximate cause and result of the acts and omissions of these Defendants as aforesaid, Plaintiffs have been damaged, and these Defendants are liable to the Plaintiffs for actual, incidental, consequential, and special damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A FOURTEENTH CAUSE OF ACTION
Amalgamation Liability as to John Wieland Homes and Neighborhoods of the Carolinas, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; John Wieland Homes of Charleston, Inc.; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; and Residential Partners IV, LLC
(Except by Original Purchasers Against Original Developers)

253. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein.

254. These Defendants have operated in such a manner that the distinctions between the entities and their activities have become blurred.

255. There is excessive interrelationship between the entities and their activities; a sharing of management and employees and other public assets; and an absence of delineation between the entities such that the public is unable to tell where one entity's activities stop and the next entity's activities start.

256. Upon information and belief, these Defendants have been set up as different legal entities so to protect fraud, exercise bad faith, justify wrong, and defeat public policy.

257. Upon information and belief, there is evidence that the blurred legal distinctions of these separate entities have resulted in bad faith, abuse, fraud, wrongdoing, and injustice.

258. Treating these Defendants as separate entities will perpetuate an injustice on Plaintiffs and allow Defendants to unjustly enrich themselves by untoward means.

259. The above listed entities should be amalgamated for purposes of any judgment in this action and viewed as a single business enterprise.

FOR A FIFTEENTH CAUSE OF ACTION
Civil Conspiracy as to All Defendants
(Except by Original Purchasers Against Original Developers)

260. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein.

261. Defendants have conspired and acted in concert and in combination in the above acts with the intent to injure Plaintiffs for Defendants' gain and benefit.

262. Defendants' above-described acts have caused Plaintiffs the above-described special damages.

263. Plaintiffs are entitled to an award of damages in an amount to be determined by the trier of fact.

264. If it is shown that Defendants' actions were committed maliciously, wantonly, and/or with reckless disregard for the rights of others, Plaintiffs are entitled to an award of punitive damages against Defendants.

FOR A SIXTEENTH CAUSE OF ACTION
Fraudulent Conveyance as to All Defendants
(Except by Original Purchasers Against Original Developers)

265. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein.

266. While on notice of Plaintiffs' potential claims, Defendants engaged in a pattern and practice of transferring assets in an effort to defraud his creditors.

267. The Wieland Family sold all of the Old Wieland Entities' assets, thus depriving the Old Wieland Entities of available resources to satisfy its debtors' claims, including Plaintiffs'.

268. The transfers of the Old Wieland Entities' assets were made for inadequate consideration to the Old Wieland Entities.

269. Defendants knew, or should have known, that creditors, including Plaintiffs, had potential claims against the Old Wieland Entities at the time of the transfers.

270. The transfers were made with an actual or constructive intent to defraud creditors.

271. The transfers of the Old Wieland Entities' assets are void because they were intended to delay, hinder, or defraud Plaintiffs of a just and lawful debt.

272. Plaintiffs are entitled to have the John Wieland Homebuilding Enterprise, or the proceeds thereof, made subject to Plaintiffs' claims, or be awarded judgment thereon.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

a) Enter judgment in favor of the Plaintiffs and against all Defendants, jointly and severally, in an amount to be determined for actual, incidental, consequential, special, and punitive damages;

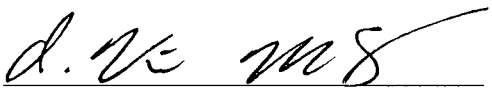
b) Find that the Defendants have engaged in unfair trade practices and knowingly did so thereby entitling Plaintiffs to treble damages;

c) Award attorneys' fees and costs to the Plaintiffs; and

d) Award such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

MCCARTY LAW FIRM, PC



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ATTORNEYS FOR PLAINTIFFS

January 10, 2019
Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Feb 05 2:41 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005245

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
) CASE NO: 2017-CP-10-5245
One Hamlin Place Townhome)
Association, Inc.,)
)
Plaintiff,)
)
vs;)
)
John Wieland Homes and)
Neighborhoods of the Carolinas, Inc. as)
successor by statutory merger to John)
Wieland Homes and Neighborhoods of)
South Carolina, Inc.; John Wieland)
Homes of Charleston, Inc.; John)
Wieland Homes, Inc. n/k/a John)
Wieland Homes and Neighborhoods of)
South Carolina; Builder Support)
Services of the Carolinas, Inc.;)
Wheelock Street Capital, LLC d/b/a)
John Wieland Homes and)
Neighborhoods, Inc.; Wheelock Street)
Real Estate Fund, LP; Wheelock Street)
Investment Management, LLC; RP)
Falcon Properties, LLC; Residential)
Partners, LLC; Middlesex Holdings,)
LLC; WS JWH, LLC; JWC Phoenix,)
LLC; Bridgemill Land, LLC;)
Annisquam Development, LLC; JW)
Land Investment, LLC; JWC Guilford,)
LLC; OOTB, LLC; JW Realty)
Associates, Inc. a/k/a Wieland Realty)
Associates, Inc.; John Wieland,)
individually; Sue Wieland; Lindsey)
Parker; Robert Parker; Jack Wieland;)
Jorge Medina; Jorge Medina a/k/a JMC)
Construction, Inc. a/k/a JMC)
Construction, LLC; John Does (20-50);)
and Jane Does (41-50); AC)
Construction, Inc.; Scott Parker,)
individually; Builders FirstSource -)
Southeast Group, LLC; Muhler LLC)
a/k/a The Muhler Company, Inc.; YKK)

RP COMPANIES' AMENDED ANSWER TO SECOND AMENDED COMPLAINT WITH CROSS-CLAIMS AND THIRD-PARTY CLAIMS

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(U.S.A), Inc.; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Gonzalo Guerrero; A-Marc, Inc.; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; Chad Hood; Kinco Ltd. a/k/a Kinco, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall

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Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J & R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction LLC. Defendants.	)
Builders FirstSource-Southeast Group, LLC, Third-Party Plaintiff, v. AC Construction, Corp. Third-Party Defendant.	)
RP Falcon Properties, LLC (f.k.a. JW Homes, LLC); RP Falcon Land, LLC (f.k.a. JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a. Wieland Realty, LLC); and Residential Partners, LLC, Third-Party Plaintiffs, v. COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC, Third-Party Defendants.	)

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COME NOW Defendants RP Falcon Properties, LLC (formerly known as JW Homes, LLC); RP Falcon Land, LLC (formerly known as JW Land Investment, LLC); RP Falcon Realty, LLC (formerly known as Wieland Realty, LLC); and Residential Partners, LLC (hereinafter "RP Companies"), by and through the undersigned counsel, and answer and otherwise respond to the Second Amended Complaint filed by Plaintiff One Hamlin Place Townhome Association, Inc. ("Plaintiff").

RP Companies' responses are made without waiving, and expressly reserving, all rights RP Companies have to file dispositive motions addressed to some or all of the claims asserted in the Second Amended Complaint. Except as expressly admitted herein, each and every allegation in the Second Amended Complaint is denied. With respect to the numbered paragraphs of the Second Amended Complaint, RP Companies respond as follows:

1. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 1 and therefore deny the same.

2. To the extent that the allegations in the first sentence of Paragraph 2 are directed at RP Companies, RP Companies deny the allegations in the first sentence of Paragraph 2. To the extent that the allegations in the first sentence of Paragraph 2 are directed at other parties, no response is required. The second sentence of Paragraph 2 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in the second sentence of Paragraph 2 and therefore deny the same.

3. To the extent that the allegations in the first sentence of Paragraph 3 are directed at RP Companies, RP Companies deny the allegations in the first sentence of Paragraph 3. To the extent that the allegations in the first sentence of Paragraph 3 are directed at other parties, no

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response is required. The second sentence of Paragraph 3 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in the second sentence of Paragraph 3 and therefore deny the same.

4. RP Companies deny the allegations in Paragraph 4.

5. RP Companies deny the allegations in Paragraph 5.

6. RP Companies deny the allegations in Paragraph 6.

7. Paragraph 7 contains conclusions of law, and thus no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 7.

8. RP Companies admit, upon information and belief, the allegations in the first sentence of Paragraph 8. RP Companies deny the allegations in the second sentence of Paragraph 8.

9. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 9, including the allegations in subsections (a)-(f), and therefore deny the same.

10. Paragraph 10 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 10 and therefore deny the same.

11. Paragraph 11 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 11 and therefore deny the same.

12. Paragraph 12 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 12 and therefore deny the same.

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13. Paragraph 13 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 13 and therefore deny the same.

14. Paragraph 14 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 14 and therefore deny the same.

15. In response to the first sentence of Paragraph 15, RP Companies admit that Wheelock Street Capital, LLC is organized and existing under the laws of the State of Delaware and is involved in real estate investments. RP Companies otherwise deny the allegations in the first sentence of Paragraph 15. RP Companies also deny the allegations in the second sentence of Paragraph 15.

16. In response to Paragraph 16, RP Companies admit that Wheelock Street Real Estate Fund, LP is a limited partnership. RP Companies otherwise deny the allegations in Paragraph 16.

17. In response to Paragraph 17, RP Companies admit that Wheelock Street Investment Management, LLC is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 17.

18. In response to Paragraph 18, RP Companies admit that RP Falcon Properties, LLC was formerly known as JW Homes, LLC and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 18.

19. In response to Paragraph 19, RP Companies admit that Residential Partners, LLC is organized and existing under the laws of the State of Delaware. RP Companies deny the remaining allegations in Paragraph 19.

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20. Paragraph 20 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 20 and therefore deny the same.

21. In response to Paragraph 21, RP Companies admit that WS JWH, LLC is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 21.

22. Paragraph 22 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 22 and therefore deny the same.

23. Paragraph 23 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 23 and therefore deny the same.

24. Paragraph 24 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 24 and therefore deny the same.

25. In response to Paragraph 25, RP Companies admit that RP Falcon Land, LLC was formerly known as JW Land Investment, LLC and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 25.

26. Paragraph 26 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 26 and therefore deny the same.

27. Paragraph 27 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 27 and therefore deny the same.

28. Paragraph 28 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 28 and therefore deny the same.

29. In response to Paragraph 29, RP Companies admit that Wheelock Street Real Estate Fund II, LP is a limited partnership and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 29.

30. In response to Paragraph 30, RP Companies admit that Wheelock Street Real Estate Fund V, LP is a limited partnership and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 30.

31. In response to Paragraph 31, RP Companies admit that WSREF NRT, LLC is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 31.

32. RP Companies admit the allegations in Paragraph 32.

33. In response to Paragraph 33, RP Companies admit that JWH RPIV, LLC is a foreign corporation and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 33.

34. In response to Paragraph 34, RP Companies admit that RP Falcon Land, LLC was formerly known as JW Land Investment LLC and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 37.

35. RP Companies deny the allegations in Paragraph 35.

36. In response to Paragraph 36, RP Companies admit that RP Falcon Realty, LLC was formerly known as RP Companies Realty, LLC and is organized and existing under the laws

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of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 36.

37. Paragraph 37 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies admit or deny the allegations in Paragraph 37 and therefore deny the same.

38. Paragraph 38 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 38 and therefore deny the same.

39. Paragraph 39 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 39 and therefore deny the same.

40. RP Companies deny the allegations in Paragraph 40, including subsections (a)-(f) of Paragraph 40.

41. Paragraph 41 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 41 and therefore deny the same.

42. Paragraph 42 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 42 and therefore deny the same.

43. Paragraph 43 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 43 and therefore deny the same

44. Paragraph 44 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 44 and therefore deny the same

45. Paragraph 45 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 45 and therefore deny the same

46. Paragraph 46 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 46 and therefore deny the same.

47. Paragraph 47 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 47 and therefore deny the same.

48. In response to Paragraph 48, RP Companies state that Robert Parker was involved in the negotiation of the 2012 sale of assets of John Wieland Homes and Neighborhoods of the Carolinas, Inc. and John Wieland Homes and Neighborhoods, Inc. to Residential Partners, LLC. RP Companies otherwise deny the allegations in Paragraph 48.

49. Paragraph 49 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 49 and therefore deny the same.

50. Paragraph 50 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 50 and therefore deny the same.

51. Paragraph 51 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 51 and therefore deny the same.

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52. Paragraph 52 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 52 and therefore deny the same.

53. Paragraph 53 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 53 and therefore deny the same.

54. Paragraph 54 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 54 and therefore deny the same.

55. Paragraph 55 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 55 and therefore deny the same.

56. Paragraph 56 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 56 and therefore deny the same.

57. Paragraph 57 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 57 and therefore deny the same.

58. Paragraph 58 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 58 and therefore deny the same.

59. Paragraph 59 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 59 and therefore deny the same.

60. Paragraph 60 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 60 and therefore deny the same.

61. Paragraph 61 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 61 and therefore deny the same.

62. Paragraph 62 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 62 and therefore deny the same.

63. Paragraph 63 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 63 and therefore deny the same.

64. Paragraph 64 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 64 and therefore deny the same.

65. Paragraph 65 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 65 and therefore deny the same.

66. Paragraph 66 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 66 and therefore deny the same.

67. Paragraph 70 is directed at another party, and thus no response is required. To the

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extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 70 and therefore deny the same.

68. Paragraph 68 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 68 and therefore deny the same.

69. Paragraph 69 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 69 and therefore deny the same.

70. Paragraph 70 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 70 and therefore deny the same.

71. Paragraph 71 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 71 and therefore deny the same.

72. Paragraph 72 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 72 and therefore deny the same.

73. Paragraph 73 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 73 and therefore deny the same.

74. Paragraph 74 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 74 and therefore deny the same.

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75. Paragraph 75 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 75 and therefore deny the same.

76. Paragraph 76 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 76 and therefore deny the same.

77. Paragraph 77 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 77 and therefore deny the same.

78. Paragraph 78 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 78 and therefore deny the same.

79. Paragraph 79 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 79 and therefore deny the same.

80. Paragraph 80 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 80 and therefore deny the same.

81. Paragraph 81 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 81 and therefore deny the same.

82. Paragraph 82 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 82 and therefore deny the same.

83. Paragraph 83 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 83 and therefore deny the same.

84. Paragraph 84 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 84 and therefore deny the same.

85. Paragraph 85 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 85 and therefore deny the same.

86. Paragraph 86 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 86 and therefore deny the same.

87. Paragraph 87 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 87 and therefore deny the same.

88. Paragraph 88 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 88 and therefore deny the same.

89. Paragraph 89 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 89 and therefore deny the same.

90. Paragraph 90 is directed at another party, and thus no response is required. To the

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extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 90 and therefore deny the same.

91. Paragraph 91 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 91 and therefore deny the same.

92. Paragraph 92 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 92 and therefore deny the same.

93. Paragraph 93 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 93 and therefore deny the same.

94. Paragraph 94 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 94 and therefore deny the same.

95. Paragraph 95 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 95 and therefore deny the same.

96. Paragraph 96 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 96 and therefore deny the same.

97. Paragraph 97 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 97 and therefore deny the same.

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98. Paragraph 98 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 98 and therefore deny the same.

99. Paragraph 99 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 99 and therefore deny the same.

100. RP Companies deny the allegations in Paragraph 100.

101. RP Companies deny the allegations in Paragraph 101.

102. RP Companies deny the allegations in Paragraph 102.

103. Paragraph 103 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 103 and therefore deny the same.

104. Paragraph 104 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 104 and therefore deny the same.

105. Paragraph 105 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 105 and therefore deny the same.

106. In response to Paragraph 106, RP Companies admit that Residential Partners, LLC and JW Homes, LLC were formed in the Fall of 2012. RP Companies otherwise deny the allegations in Paragraph 106.

107. In response to Paragraph 107, RP Companies admits that JW Land Investment, LLC was formed in the Fall of 2012. The remaining allegations in Paragraph 107 are directed at

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other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 107 and therefore deny the same.

108. Paragraph is 108 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 108 and therefore deny the same.

109. Paragraph is 109 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 109 and therefore deny the same.

110. Paragraph is 110 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 110 and therefore deny the same

111. RP Companies admit the allegations in Paragraph 111.

112. RP Companies deny the allegations in Paragraph 112.

113. In response to Paragraph 113, RP Companies state that Robert Parker was involved in the negotiation of the 2012 sale of assets of John Wieland Homes and Neighborhoods of the Carolinas, Inc. and John Wieland Homes and Neighborhoods, Inc. to Residential Partners, LLC. RP Companies otherwise deny the allegations in Paragraph 113.

114. RP Companies deny the allegations in Paragraph 114.

115. RP Companies deny the allegations in Paragraph 115.

116. RP Companies deny the allegations in Paragraph 116.

117. RP Companies deny the allegations in Paragraph 117.

118. RP Companies deny the allegations in Paragraph 118.

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119. RP Companies deny the allegations in Paragraph 119.

120. RP Companies deny the allegations in Paragraph 120.

121. RP Companies deny the allegations in Paragraph 121.

122. RP Companies deny the allegations in Paragraph 122.

123. RP Companies deny the allegations in the first sentence of Paragraph 123. In response to the second sentence of Paragraph 123, RP Companies state the website of JW Homes, LLC speaks for itself and denies any mischaracterization of the contents of that website.

124. RP Companies deny the allegations in Paragraph 124, including subsections (a)-(l) of Paragraph 124.

125. RP Companies deny the allegations in Paragraph 125.

126. RP Companies deny the allegations in Paragraph 126.

127. Paragraph 127 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 127 and therefore deny the same.

128. RP Companies deny the allegations in Paragraph 128.

129. RP Companies deny the allegations in Paragraph 129.

130. RP Companies deny the allegations in Paragraph 130.

131. RP Companies deny the allegations in Paragraph 131.

132. RP Companies deny the allegations in Paragraph 132.

133. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 133 and therefore deny the same.

134. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 134 and therefore deny the same.

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135. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 135 and therefore deny the same.

136. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 136 and therefore deny the same.

137. In response to Paragraph 137, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

138. In response to the first sentence of Paragraph 138, RP Companies lack sufficient information to admit or deny the allegations related to the information provided to Plaintiff or its beliefs and therefore deny the same. RP Companies deny the remaining allegations in the first sentence of Paragraph 138. RP Companies also deny the allegations in the second sentence of Paragraph 138.

139. RP Companies deny the allegations in Paragraph 139.

140. RP Companies deny the allegations in Paragraph 140.

141. RP Companies deny the allegations in Paragraph 141.

142. RP Companies deny the allegations in Paragraph 142.

143. RP Companies deny the allegations in Paragraph 143.

144. RP Companies deny the allegations in Paragraph 144.

145. RP Companies deny the allegations in Paragraph 145.

146. RP Companies deny the allegations in Paragraph 146.

147. RP Companies deny the allegations in Paragraph 147.

148. RP Companies deny the allegations in Paragraph 148.

149. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 149 and therefore deny the same.

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150. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 150 and therefore deny the same.

151. RP Companies deny the allegations in Paragraph 151.

152. RP Companies deny the allegations in Paragraph 152.

153. RP Companies deny the allegations in Paragraph 153.

154. RP Companies deny the allegations in Paragraph 154.

155. RP Companies deny the allegations in Paragraph 155.

156. RP Companies deny the allegations in Paragraph 156.

157. RP Companies deny the allegations in Paragraph 157.

158. RP Companies deny the allegations in Paragraph 158.

159. RP Companies deny the allegations in Paragraph 159.

160. RP Companies deny the allegations in Paragraph 160.

161. In response to Paragraph 161, RP Companies admit, upon information and belief, that One Hamlin Place Townhomes is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina. RP Companies otherwise deny the allegations in Paragraph 161.

162. RP Companies deny the allegations in Paragraph 162.

163. RP Companies deny the allegations in Paragraph 163.

164. RP Companies deny the allegations in Paragraph 164.

165. Paragraph 165 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 165.

166. RP Companies admit, upon information and belief, the allegations in the first sentence of Paragraph 166. RP Companies deny the allegations in the second sentence of

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Paragraph 166.

167. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 167, including the allegations in subsections (a)-(f) of Paragraph 167, and therefore deny the same.

168. RP Companies deny the allegations in Paragraph 168.

169. RP Companies deny the allegations in Paragraph 169.

170. In response to Paragraph 170, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

171. Paragraph 171 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 171.

172. RP Companies deny the allegations in Paragraph 172.

173. RP Companies deny the allegations in Paragraph 173.

174. RP Companies deny the allegations in Paragraph 174.

175. RP Companies deny the allegations in Paragraph 175.

176. RP Companies deny the allegations in Paragraph 176.

177. RP Companies deny the allegations in Paragraph 177.

178. RP Companies deny the allegations in Paragraph 178.

179. In response to Paragraph 179, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

180. RP Companies deny the allegations in Paragraph 180.

181. RP Companies deny the allegations in Paragraph 181.

182. RP Companies deny the allegations in Paragraph 182.

183. In response to Paragraph 183, RP Companies repeat, re-allege, and incorporate by

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reference the preceding paragraphs as if fully set forth herein verbatim.

184. RP Companies deny the allegations in Paragraph 184.

185. RP Companies deny the allegations in Paragraph 185.

186. In response to Paragraph 186, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

187. RP Companies deny the allegations in Paragraph 187.

188. RP Companies deny the allegations in Paragraph 188.

189. RP Companies deny the allegations in Paragraph 189.

190. RP Companies deny the allegations in Paragraph 190.

191. RP Companies deny the allegations in Paragraph 191.

192. In response to Paragraph 192, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

193. RP Companies deny the allegations in Paragraph 193.

194. RP Companies deny the allegations in Paragraph 194.

195. RP Companies deny the allegations in Paragraph 195.

196. RP Companies deny the allegations in Paragraph 196.

197. In response to Paragraph 197, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

198. RP Companies deny the allegations in Paragraph 198, including subsections (a)-(v) of Paragraph 198.

199. RP Companies deny the allegations in Paragraph 199.

200. In response to Paragraph 200, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

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201. RP Companies deny the allegations in Paragraph 201.

202. RP Companies deny the allegations in Paragraph 202.

203. RP Companies deny the allegations in Paragraph 203.

204. RP Companies deny the allegations in Paragraph 204.

205. In response to Paragraph 205, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

206. RP Companies deny the allegations in Paragraph 206.

207. RP Companies deny the allegations in Paragraph 207.

208. RP Companies deny the allegations in Paragraph 208.

209. RP Companies deny the allegations in Paragraph 209.

210. In response to Paragraph 210, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

211. RP Companies deny the allegations in Paragraph 211.

212. RP Companies deny the allegations in Paragraph 212.

213. RP Companies deny the allegations in Paragraph 213.

214. In response to Paragraph 214, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

215. RP Companies deny the allegations in Paragraph 215.

216. RP Companies deny the allegations in Paragraph 216.

217. RP Companies deny the allegations in Paragraph 217.

218. RP Companies deny the allegations in Paragraph 218.

219. RP Companies deny the allegations in Paragraph 219.

220. RP Companies deny the allegations in Paragraph 220.

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221. RP Companies deny the allegations in Paragraph 221.

222. RP Companies deny the allegations in Paragraph 222.

223. RP Companies deny the allegations in Paragraph 223.

224. RP Companies deny the allegations in Paragraph 224.

225. RP Companies deny the allegations in Paragraph 225.

226. RP Companies deny the allegations in Paragraph 226.

227. RP Companies deny the allegations in Paragraph 227.

228. In response to Paragraph 228, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

229. RP Companies deny the allegations in Paragraph 229.

230. RP Companies deny the allegations in Paragraph 230.

231. Paragraph 231 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 231.

232. RP Companies deny the allegations in Paragraph 232.

233. RP Companies deny the allegations in Paragraph 233.

234. RP Companies deny the allegations in Paragraph 234.

235. RP Companies deny the allegations in Paragraph 235.

236. RP Companies deny the allegations in Paragraph 236.

237. In response to Paragraph 237, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

238. Paragraph 238 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 238.

239. RP Companies deny the allegations in Paragraph 239.

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240. RP Companies deny the allegations in Paragraph 240.

241. RP Companies deny the allegations in Paragraph 241.

242. RP Companies deny the allegations in Paragraph 242.

243. In response to Paragraph 243, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

244. RP Companies deny the allegations in Paragraph 244.

245. In response to Paragraph 245, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

246. RP Companies deny the allegations in Paragraph 246.

247. RP Companies deny the allegations in Paragraph 247.

248. RP Companies deny the allegations in Paragraph 248.

249. RP Companies deny the allegations in Paragraph 249.

250. RP Companies deny the allegations in Paragraph 250.

251. RP Companies deny the allegations in Paragraph 251.

252. In response to Paragraph 252, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

253. RP Companies deny the allegations in Paragraph 253.

254. RP Companies deny the allegations in Paragraph 254.

255. RP Companies deny the allegations in Paragraph 255.

256. RP Companies deny the allegations in Paragraph 256.

257. In response to Paragraph 257, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

258. RP Companies deny the allegations in Paragraph 258.

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259. RP Companies deny the allegations in Paragraph 259.

260. RP Companies deny the allegations in Paragraph 260.

261. RP Companies deny the allegations in Paragraph 261.

262. RP Companies deny the allegations in Paragraph 262.

263. RP Companies deny the allegations in Paragraph 263.

264. RP Companies deny the allegations in Paragraph 264 and the allegations in the following "WHEREFORE" paragraph, including subsections (a)-(f) of that paragraph.

ADDITIONAL DEFENSES

First Additional Defense

Plaintiff's Second Amended Complaint should be dismissed under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state facts sufficient to constitute a cause of action and failure to satisfy adequate pleading requirements for each Defendant.

Second Additional Defense

Plaintiff's Second Amended Complaint should be dismissed for lack of personal jurisdiction under Rule 12(b)(2) of the South Carolina Rules of Civil Procedure.

Third Additional Defense

Plaintiff's "causes of action" are not causes of action, but rather alleged remedies, equitable in nature, and should be determined by this Court alone and placed on a non-jury roster.

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Fourth Additional Defense

Plaintiff's action as a whole, and each cause of action individually, is barred by the applicable statutes of limitations and/or repose under South Carolina, Delaware, and/or Georgia law and/or federal law, as well as other state and federal statutes of limitations and/or repose.

Fifth Additional Defense

Plaintiff has failed to plead its claims with the requisite specificity under Rules 8(a) and/or 9(b) of the South Carolina Rules of Civil Procedure, South Carolina, Georgia and/or Delaware law.

Sixth Additional Defense

Plaintiff's cause of action for violation of the South Carolina Unfair Trade Practices Act ("SCUTPA"), S.C. Code Ann. §§ 39-5-10 *et seq.*, should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state a claim upon which relief can be granted because the SCUTPA plainly states that such a claim may not be maintained in a representative capacity. S.C. Code Ann. § 39-5-140(a).

Seventh Additional Defense

Plaintiff's claims are barred or limited because it knew, should have known, or had reason to know the facts and circumstances on which its claim(s) are based. As a consequence, they are subject to the defenses of waiver, estoppel, laches, acquiescence, and similar concepts; its claims are barred by notice and knowledge; and its requests for relief are inequitable and so barred or limited by equitable doctrines, including unclean hands.

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Eighth Additional Defense

Plaintiff's claims are barred by its own contributory and/or comparative negligence and/or recklessness for its failure to properly maintain the subject properties and to mitigate any damages to those properties.

Ninth Additional Defense

Plaintiff failed to mitigate its damages, if any, regardless of its contributory and/or comparative negligence and/or recklessness.

Tenth Additional Defense

Plaintiff's claims are barred because its damages are the result of acts and omissions of other entities, over which RP Companies have or had no control.

Eleventh Additional Defense

Plaintiff's claims are barred because it failed to make a claim within any applicable warranty period.

Twelfth Additional Defense

RP Companies made no warranties of any kind, express or implied, or any representations of any nature whatsoever to Plaintiff. If such warranties were made, whether express or implied, which RP Companies specifically deny, then Plaintiff's claims are barred because (a) it failed to give notice of any breach thereof, and/or (b) Plaintiffs did not rely on any warranties allegedly made by RP Companies.

Thirteenth Additional Defense

Plaintiff's claim for punitive damages is barred because such an award would violate RP Companies' due process, equal protection, and other rights under the United States Constitution.

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Further, any award of punitive damages is subject to the limitations set forth in S.C. Code § 15-32-530.

Fourteenth Additional Defense

Plaintiff's claims are barred by the doctrine of corporate immunity and/or business judgment rule.

Fifteenth Additional Defense

Plaintiff's claims are barred or should be dismissed by the doctrine of spoliation of evidence, as the Plaintiff spoiled evidence and repaired alleged deficiencies without notice to RP Companies and without giving Wheelock Fund opportunity to observe the alleged deficiencies.

Sixteenth Additional Defense

Plaintiff's claims are barred and/or should be stayed or dismissed because Plaintiff failed to comply with the South Carolina Notice and Opportunity to Cure Non-Residential Construction Defects Act, South Carolina Code § 40-11-510, *et. seq*.

Seventeenth Additional Defense

Plaintiff's claims are barred and/or should be stayed or dismissed by virtue of the Plaintiff's failure to comply with the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, South Carolina Code § 40-59-810-860 (1976 as amended).

Eighteenth Additional Defense

Plaintiff's claims are barred by the economic loss rule.

Nineteenth Additional Defense

Plaintiff's and potential class action Plaintiff's claims are barred to the extent that they are improperly joined as one cause of action.

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Twentieth Additional Defense

Plaintiff's claims are barred because they have been settled, released, compromised, and/or waived.

Twenty-First Additional Defense

Plaintiff lacks standing to assert the claims in its Second Amended Complaint.

Twenty-Second Additional Defense

Plaintiff's claims are barred because there is no privity between Plaintiff and RP Companies, and otherwise no fiduciary or special relationship between Plaintiff and RP Companies.

Twenty-Third Additional Defense

Plaintiff's claims are barred because it assumed the risk and/or accepted all portions of any alleged damages.

Twenty-Fourth Additional Defense

Plaintiff's claims should be barred or, in the alternative, stayed pending a resolution of this dispute by arbitration to the extent such arbitration is required by the contract documents to which Plaintiff is a party.

Twenty-Fifth Additional Defense

RP Companies are entitled to a right of setoff based on the settlement contributions of any other party to this action.

Twenty-Sixth Additional Defense

RP Companies reserve and do not waive the right to raise claims against any party and/or third parties, including, without limitation, those for indemnity and/or contribution.

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Twenty-Seventh Additional Defense

Plaintiff's Second Amended Complaint should be dismissed for insufficiency of process under Rule 12(b)(4) of South Carolina Rules of Civil Procedure and Rule 12(b)(5) for insufficiency of service of process.

Twenty-Eighth Additional Defense

RP Companies incorporate all applicable defenses asserted by other Defendants that are not otherwise specifically set forth in this set of Additional Defenses.

RP Companies hereby give notice that they intend to rely upon such and further defenses as may become available or apparent during discovery proceedings in this case and hereby reserves their right to amend their Answer and assert such defenses.

Further Answering and By Way of Cross-Claims The RP Companies Allege as Follows:

265. The RP Companies repeat and reallege all the preceding paragraphs of this Amended Answer and Affirmative Defenses as if set forth verbatim herein.

266. Plaintiff has sued RP Companies claiming damages caused by alleged deficient materials, design, engineering and/or construction services provided by Subcontractor Defendants on the Project.

267. RP Companies contracted with the following persons and entities (herein collectively referred to as "Subcontractor Defendants") for provisions of labor, materials, design, products, and/or services to used constructing the Project. Those persons and entities are as follows:

a. All American Roofing and Construction, LLC;

b. DBC Construction Services, LLC;

c. GR Painting, Inc.;

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d. Ivan Jose Paiz;

e. JMC Construction, LLC;

f. Muhler Company, Inc.; and

g. YKK (U.S.A.), Inc.;

268. RP Companies have denied all of the substantive allegations against them that were made by Plaintiff.

Further Answering and as a First Cross-Claim:
(Indemnity)

269. To the extent, if any, that RP Companies are held liable to Plaintiff in this action, such liability would be a direct and proximate result of the wrongful acts, omission, negligence and/or representations of Subcontractor Defendants, which has damaged RP Companies as RP Companies have been subjected to liability, and have incurred consequential damages in having to expend attorneys' fees and costs in defending this action.

270. To the extent, if any, that the construction was defective or deficient in workmanship, installation, materials and/or were not merchantable or fit for their particular purposes, such defects and deficiencies would be the result of the breach of the express and implied contractual obligations and warranties that Subcontractor Defendants provided, damaging RP Companies as RP Companies have been subjected to liability, and has incurred consequential damages in having to expend attorney's fees and cots in defending this action.

271. RP Companies are entitled to full indemnification from Subcontractor Defendants for any liability the RP Companies are found to have to Plaintiff in this action, and RP Companies would be entitled to damages for Subcontractor Defendants' negligence as described above and for Subcontractor Defendants' breach of its implied and express warranties, entitling RP Companies to recover from Subcontractor Defendants their

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attorney's fees, costs and other expenses incurred in defending this action, and entitling RP Companies to recover from Subcontractor Defendants any sums for which they may be held liable to Plaintiff.

272. The Project allegedly has sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

Further Answering and as a Second Cross-Claim:
(Negligence)

273. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

274. The Subcontractor Defendants were negligent, careless and reckless in the construction, supervision, inspection and/or supplying of the work or materials outlined above and incorporated into the project.

275. As a direct and proximate result of such negligence, carelessness and recklessness, RP Companies have been damaged in the amount of any monies it is adjudged to owe Plaintiff, or which it pays Plaintiff in settlement of Plaintiff's claims, plus the cost of investigating and defending this claim.

276. Upon information and belief, RP Companies are entitled to judgment for actual damages collectively or individually against the Subcontractor Defendants in the amount of any monies they are adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, as well as fees and costs incurred in the investigation, defense and settlement of this claim.

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277. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

278. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continues to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' negligence and for which the Subcontractor Defendants also are liable to RP Companies.

Further Answering and as a Third Cross-Claim:
(Breach of Warranty)

279. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

280. The Subcontractor Defendants expressly or impliedly warranted to RP Companies that all work performed by them would be performed in a careful, diligent and workmanlike manner, and that any materials and/or services designed, supplied or sold by them for use on the project would be merchantable and fit for their intended or specific purpose. Subcontractor Defendants breached their implied and/or express warranties of merchantability, workmanlike service, and/or fitness for a particular or intended purpose in the construction of the project.

281. As a result of these breaches of warranties, RP Companies have incurred damage in the amount of any money they have been adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, plus the cost of investigating and defending

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this claim.

282. Upon information and belief, RP Companies are entitled to judgment against the Subcontractor Defendants in the amount of any monies they are adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, as well as costs and fees incurred in the investigation, defense and settlement of this claim.

283. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

284. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continues to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' breach of warranty and for which the Subcontractor Defendants are also liable to RP Companies.

Further Answering and as a Fourth Cross-Claim:
(Breach of Contract)

285. RP Companies reallege the Paragraphs above as if repeated herein verbatim.

286. RP Companies entered into contracts with the Subcontractor Defendants. Subcontractor Defendants were to provide work and materials to the Project in question as described above.

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287. The terms of the contracts required Subcontractor Defendants to provide construction goods and services for the Project that, among other things, would produce a quality building free from defects and otherwise in conformance of all contract documents, including all building codes and industry standards. The contract further required Subcontractor Defendants to supervise and direct its work, using the best skill and attention.

288. Subcontractor Defendants breached their contract by failing to provide appropriate construction goods and services to the Project, by failing to perform their work in a careful, diligent and workmanlike manner, by failing to provide goods and services that resulted in a quality building free from defects and otherwise in conformance with all contract documents, and failing to provide goods and services that were in conformity with all appropriate building codes and industry standards.

289. As a result of these breaches of contract, RP Companies have incurred damage in the amount of any money they have been adjudged to owe Plaintiff, or which they paid Plaintiff in settlement of Plaintiff's claims, plus the costs of investigating and defending this claim.

Further Answering and as a Fifth Cross-Claim:
(Strict Liability/Products Liability)

290. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

291. The components manufactured, supplied, sold, and distributed by Defendant YKK (USA), Inc., were defective in their design and/or manufacture, and those co-defendants failed to warn the RP Companies of the dangers and problems inherent with the components.

292. By virtue of the defects in the windows and the failure to warn by Defendant YKK (USA), Inc., the components used in the residences in question failed, causing consequential damages to the residences and causing damages to the RP Companies in that the RP Companies have, had (or will have) to expend monies to resolve the claims of the homeowners

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and to investigate and defend the claims of the homeowners, all to the damage of the RP Companies as described herein.

293. The Project has sustained actual damage by exposure to the improper and negligent construction the Subcontractor Defendants. The Project has sustained property damage caused by continuous exposure to the faulty work of the Subcontractor Defendants that resulted in property damage and not merely negligent construction damaging only the work product of each of the separate Subcontractor Defendants. In addition, the alleged faulty workmanship, breaches, errors, omissions and wrongful acts of the Fourth-Party Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

294. Upon information and belief, the RP Companies are entitled to judgment against Subcontractor Defendants in the amount of any monies they have been adjudged to owe Plaintiff, or which they paid Plaintiff in settlement of Plaintiff's claims, as well as costs and fees incurred in the investigation, defense, and settlement of this claim.

295. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

296. Further, the RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have has incurred and continues to incur costs reasonably necessary to defend their interests including fees and

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costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' breach of contract and for which the Subcontractor Defendants are also liable to the RP Companies.

Further Answering and By Way Of A Third-Party Complaint The RP Companies Allege:

297. The RP Companies repeat and reallege all the preceding paragraphs of this Amended Answer, Affirmative Defenses, and Cross-Claims as if set forth verbatim herein.

298. Plaintiff has sued RP Companies claiming damages caused by alleged deficient materials, design, engineering and/or construction services provided by Subcontractor Defendants on the Project.

299. RP Companies contracted with the following persons and entities (herein collectively referred to as "Subcontractor Defendants") for provisions of labor, materials, design, products, and/or services to used constructing the Project. Those persons and entities are as follows:

a. All Exteriors Construction, LLC;

b. Bury's Footer's, LLC;

c. CY Construction, LLC a/k/a COY-CY Construction;

d. Evans Enterprises, Inc.;

e. IML Construction, LLC;

f. Marcus Built, LLC;

g. 84 Lumber Company

300. RP Companies have denied all of the substantive allegations against them that were made by Plaintiff.

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Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Indemnity)

301. To the extent, if any, that RP Companies are held liable to Plaintiff in this action, such liability would be a direct and proximate result of the wrongful acts, omission, negligence and/or representations of Subcontractor Defendants, which has damaged RP Companies as RP Companies have been subjected to liability, and have incurred consequential damages in having to expend attorneys' fees and costs in defending this action.

302. To the extent, if any, that the construction was defective or deficient in workmanship, installation, materials and/or were not merchantable or fit for their particular purposes, such defects and deficiencies would be the result of the breach of the express and implied contractual obligations and warranties that Subcontractor Defendants provided, damaging RP Companies as RP Companies have been subjected to liability, and has incurred consequential damages in having to expend attorney's fees and cots in defending this action.

303. RP Companies are entitled to full indemnification from Subcontractor Defendants for any liability the RP Companies are found to have to Plaintiff in this action, and RP Companies would be entitled to damages for Subcontractor Defendants' negligence as described above and for Subcontractor Defendants' breach of its implied and express warranties, entitling RP Companies to recover from Subcontractor Defendants their attorney's fees, costs and other expenses incurred in defending this action, and entitling RP Companies to recover from Subcontractor Defendants any sums for which they may be held liable to Plaintiff.

304. The Project allegedly has sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of

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each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Negligence)

305. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

306. The Subcontractor Defendants were negligent, careless and reckless in the construction, supervision, inspection and/or supplying of the work or materials outlined above and incorporated into the project.

307. As a direct and proximate result of such negligence, carelessness and recklessness, RP Companies have been damaged in the amount of any monies they are adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, plus the cost of investigating and defending this claim.

308. Upon information and belief, RP Companies are entitled to judgment for actual damages collectively or individually against the Subcontractor Defendants in the amount of any monies they are adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, as well as fees and costs incurred in the investigation, defense and settlement of this claim.

309. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

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310. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continue to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' negligence and for which the Subcontractor Defendants also are liable to RP Companies.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Breach of Warranty)

311. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

312. The Subcontractor Defendants expressly or impliedly warranted to RP Companies that all work performed by them would be performed in a careful, diligent and workmanlike manner, and that any materials and/or services designed, supplied or sold by them for use on the project would be merchantable and fit for their intended or specific purpose. Subcontractor Defendants breached their implied and/or express warranties of merchantability, workmanlike service, and/or fitness for a particular or intended purpose in the construction of the project.

313. As a result of these breaches of warranties, RP Companies have incurred damage in the amount of any money they are adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, plus the cost of investigating and defending this claim.

314. Upon information and belief, RP Companies are entitled to judgment against the Subcontractor Defendants in the amount of any monies they are adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, as well as costs and fees incurred in the investigation, defense and settlement of this claim.

315. The Project has allegedly sustained actual property damage caused by

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continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

316. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continues to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' breach of warranty and for which the Subcontractor Defendants are also liable to RP Companies.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Breach of Contract)

317. RP Companies reallege the Paragraphs above as if repeated herein verbatim.

318. RP Companies entered into contracts with the Subcontractor Defendants. Subcontractor Defendants were to provide work and materials to the Project in question as described above.

319. The terms of the contracts required Subcontractor Defendants to provide construction goods and services for the Project that, among other things, would produce a quality building free from defects and otherwise in conformance of all contract documents, including all building codes and industry standards. The contract further required Subcontractor Defendants to supervise and direct its work, using the best skill and attention.

320. Subcontractor Defendants breached their contract by failing to provide

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appropriate construction goods and services to the Project, by failing to perform their work in a careful, diligent and workmanlike manner, by failing to provide goods and services that resulted in a quality building free from defects and otherwise in conformance with all contract documents, and failing to provide goods and services that were in conformity with all appropriate building codes and industry standards.

321. As a result of these breaches of contract, RP Companies have incurred damage in the amount of any money they are adjudged to owe Plaintiff, or which they paid Plaintiff in settlement of Plaintiff's claims, plus the costs of investigating and defending this claim.

WHEREFORE, having fully answered the Plaintiff's Second Amended Complaint herein, RP Companies pray for relief and request that the Court dismiss Plaintiff's Second Amended Complaint with prejudice, enter judgment in RP Companies' favor on all counts, and award such costs, expenses, and fees to RP Companies as this Court deems equitable, just, and proper.

/s Blake A. McKie
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Attorneys for RP Companies

This 5th day of February, 2020
Charleston, South Carolina

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	NINTH JUDICIAL CIRCUIT
)	
One Hamlin Place Townhome Association, Inc.,)	Civil Action No.: 2017-CP-10-5245
)	
Plaintiff,)	ANSWER OF THE DEFENDANTS NAMED AS JORGE MEDINA, JORGE MEDINA A/K/A JMC CONSTRUCTION, INC., A//K/A JMC CONSTRUCTION, LLC, AND VALENCIA MEDINA TO THE CROSS-CLAIMS ASSERTED BY THE DEFENDANTS IDENTIFIED AS THE RP COMPANIES
)	
vs.)	(Jury trial demanded)
)	
John Wieland Homes and Neighborhoods of The Carolinas, Inc. as successor by statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does, (20-50); and Jane Does (41-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource-Southeast Group, LLC; Muhler, LLC a/k/a The Muhler Company, Inc.; YKK (U.S.A.), Inc.; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIPV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential)	

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Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Gonzalo Guerrero; A-Marc, Inc.; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Mark A. McFarland d/b/a In The Wind, Inc.; Harbor Master, Inc.; Chad Hood; Kinco Ltd. a/k/a Kinco, Inc.; Atrium Companies Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J&R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction, LLC,

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Defendants.

Builders FirstSource-Southeast Group, LLC,

Third-Party Plaintiff,

vs.

AC Construction, Corp.

Third-Party Defendant.

RP Falcon Properties, LLC (f.k.a JW Homes, LLC): RP Falcon Land, LLC (f.k.a JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a Wieland Realty, LLC); and Residential Partners, LLC,

Third-Party Plaintiffs,

vs.

COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC,

Third-Party Defendants.

Comes now Defendants named as Jorge Medina, Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC, and Valencia Medina (hereinafter collectively "JMC") answering the cross-claims asserted by Defendants RP Falcon Properties, LLC, formerly known as JW Homes, LLC; RP Falcon Land, LLC, formerly known as JW Land Investment, LLC; RP Falcon Realty, LLC, formerly known as Wieland Realty, LLC; and Residential Partners, LLC (hereinafter collectively referenced as the "RP Companies") in the RP Companies' answer to the Second Amended Complaint asserted by the Plaintiffs, which pleading by the RP Companies was

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filed on February 5, 2020 after consent and leave of court was granted, by denying each and every allegation not hereinafter admitted, and further responding as follows:

FOR A FIRST DEFENSE AND BY WAY OF ANSWER

1. Paragraphs numbered 1 through 264 and labeled as the "First Additional Defense" through the "Twenty-Eighth Additional Defense" are the RP Companies' answer and affirmative defenses to Plaintiff's Second Amended Complaint and do not require a response from JMC; however, to the extent a response is required or to the extent these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

2. In response to Paragraph 265, JMC realleges its response in the paragraph above as if restated here verbatim.

3. In response to Paragraph 266, JMC admits only that Plaintiff has alleged certain claims in its Second Amended Complaint against the RP Companies Defendants as well as against other defendants, but JMC denies all liability that can be construed against it and realleges its answer to Plaintiff's Second Amended Complaint that JMC filed on February 15, 2019, as if restated here verbatim.

4. JMC Denies the allegations contained in Paragraph 267, subpart "e," and demands strict proof thereof. Further responding, JMC states that, upon information and belief, JMC was a subcontractor only to the original John Wieland Homes and Neighborhoods of the Carolinas, Inc.'s, et al., entities on the One Hamlin Place building numbers 1, 2, 3, and 4 only. JMC did not work on the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11, which, upon information and belief, are the buildings that the RP Companies constructed. JMC lacks sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 267 and, therefore, denies, the same.

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5. In response to Paragraph 268, JMC admits only that, upon information and belief, the RP Companies denied the allegations asserted against it in Plaintiffs' Second Amended Complaint. Further responding, JMC denies all liability that can be construed against it and realleges its answer to Plaintiff's Second Amended Complaint that JMC filed on February 15, 2019, as if restated here verbatim.

First Cross-Claim
(Indemnity)

6. JMC denies the allegations contained in Paragraphs 269 through 272 and demands strict proof thereof.

Second Cross-Claim
(Negligence)

7. In response to Paragraph 273, JMC realleges Paragraphs 1 through 6 above as if restated herein verbatim.

8. JMC denies the allegations contained in Paragraphs 274 through 278 and demands strict proof thereof.

Third Cross-Claim
(Breach of Warranty)

9. In response to Paragraph 279, JMC realleges its answers in Paragraphs 1 through 8 above as if restated herein verbatim.

10. In response to Paragraph 280, JMC admits only that whatever work it may have performed on the One Hamlin Place Townhome buildings 1, 2, 3, and 4 was performed in a careful, diligent and workmanlike manner, and in accordance with the applicable building codes, industry standards, and product specifications, and any allegations inconsistent with this response are denied and JMC demands strict proof thereof. Further responding, JMC denies all allegations

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regarding the One Hamline Place Townhome buildings 5, 6, 7, 8, 9, 10, and 11 and demands strict proof thereof.

11. JMC denies the allegations contained in Paragraphs 281 through 284 and demands strict proof thereof.

Fourth Cross-Claim
(Breach of Contract)

12. In response to Paragraph 285, JMC realleges its answers in Paragraphs 1 through 11 above as if restated herein verbatim.

13. JMC Denies the allegations contained in Paragraph 286 and demands strict proof thereof. Further responding, JMC states that, upon information and belief, JMC was a subcontractor only to the original John Wieland Homes and Neighborhoods of the Carolinas, Inc.'s, et al., entities on the One Hamlin Place building numbers 1, 2, 3, and 4 only. JMC did not work on the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11, which, upon information and belief, are the buildings that the RP Companies constructed.

14. JMC denies the allegations contained in Paragraphs 287 through 289 and demands strict proof thereof.

Fifth Cross-Claim
(Strict Liability/Products Liability)

15. In response to Paragraph 290, JMC realleges its answers in Paragraphs 1 through 14 above as if restated herein verbatim.

16. Upon information and belief, the allegations contained in Paragraphs 291 and 292 are not directed to JMC and, therefore, to not require a response from this defendant. However, to the extent a response is required or to the extent these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

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17. JMC denies the allegations contained in Paragraphs 293 through 296 and demands strict proof thereof.

Third-Party Allegations

18. In response to Paragraph 297, JMC realleges its answers in Paragraphs 1 through 17 above as if restated here verbatim.

19. Upon information and belief, the allegations contained in Paragraphs 298 through 300, including all subparts, are not directed to JMC and, therefore, require no response from this defendant; however, to the extent a response is required or to the extent that these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

First Third-Party Claim
(Indemnity)

20. Upon information and belief, the allegations contained in Paragraphs 301 through 304 are not directed to JMC and, therefore, require no response from this defendant; however, to the extent a response is required or to the extent that these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

Second Third-Party Claim
(Negligence)

21. In response to Paragraph 305, JMC realleges its answers in Paragraphs 1 through 20 above as if restated here verbatim.

22. Upon information and belief, the allegations contained in Paragraphs 306 through 310 are not directed to JMC and, therefore, require no response from this defendant; however, to the extent a response is required or to the extent that these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

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Third Third-Party Claim
(Breach of Warranty)

23. In response to Paragraph 311, JMC realleges its answers in Paragraphs 1 through 22 above as if restated here verbatim.

24. Upon information and belief, the allegations contained in Paragraphs 312 through 316 are not directed to JMC and, therefore, require no response from this defendant; however, to the extent a response is required or to the extent that these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

Fourth Third-Party Claim
(Breach of Contract)

25. In response to Paragraph 317, JMC realleges its answers in Paragraphs 1 through 24 above as if restated here verbatim.

26. Upon information and belief, the allegations contained in Paragraphs 318 through 321 are not directed to JMC and, therefore, require no response from this defendant; however, to the extent a response is required or to the extent that these paragraphs can be construed to impart liability on JMC, then these allegations are denied and JMC demands strict proof thereof.

27. JMC denies that the RP Companies are entitled to their requested relief contained in the unnumbered "Wherefore" paragraph and demand strict proof thereof.

FOR A SECOND DEFENSE

28. The RP Companies' cross claims fail to set forth sufficient facts to constitute a cause of action and, therefore, should be dismissed pursuant to Rule 12(b)(6), SCRCP.

FOR A THIRD DEFENSE

29. Even if JMC was negligent in any respect, which is expressly denied, and such conduct operated as a proximate cause of the RP Companies' injuries, if any, which is expressly

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denied, JMC alleges the RP Companies' negligent, grossly negligent, reckless, willful, and wanton conduct contributed more than fifty percent (50%) to the cause of the accident, and therefore, the RP Companies' claims are barred.

FOR A FOURTH DEFENSE

30. Even if JMC was negligent in any respect, which is expressly denied, and even if such conduct on the part of JMC operated as a greater than fifty percent (50%) cause of the RP Companies' injuries, if any, which is also denied, JMC is entitled to a determination as to the percentage which the RP Companies' negligent, grossly negligent, reckless, willful, and wanton conduct contributed to the RP Companies' accident and resulting injuries, if any, and to a reduction of any amount awarded to the RP Companies by an amount equal to the percentage of the RP Companies' own negligence.

FOR A FIFTH DEFENSE

31. Such injuries or losses as the RP Companies sustained, if any, were caused by the contributory negligence, carelessness, recklessness, willfulness, and wantonness of the RP Companies and JMC pleads the RP Companies' contributory negligence as a complete defense to this action.

FOR A SIXTH DEFENSE

32. Any injuries or damages sustained by the RP Companies were due to and caused and occasioned by the RP Companies' own negligence, gross negligence, recklessness, willfulness, and wantonness which was the direct and proximate cause of the RP Companies' alleged injuries or damages, if any, and without which the same would not have occurred, and therefore, due to the RP Companies' sole negligence, gross negligence, recklessness, willfulness, and wantonness, the RP Companies' claims are barred.

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FOR A SEVENTH DEFENSE

33. Any injuries sustained by the RP Companies were due to and caused by the sole negligence of third persons over whom JMC had no control, and therefore, JMC should not be liable to the RP Companies in any sum whatsoever.

FOR AN EIGHTH DEFENSE

34. Any injuries sustained by the RP Companies were due to and caused by the intervening and superseding acts of negligence, carelessness, recklessness, and gross negligence on the part of third persons as a proximate cause of injuries as alleged, if any, and therefore, JMC should not be liable to the RP Companies in any sum whatsoever.

FOR A NINTH DEFENSE

35. The RP Companies' claims may be barred by the doctrine of estoppel.

FOR A TENTH DEFENSE

36. The RP Companies' claims may be barred or otherwise reduced due to the failure to mitigate damages as required by law.

FOR AN ELEVENTH DEFENSE

37. The RP Companies' claims may be barred by the doctrine of laches.

FOR A TWELFTH DEFENSE

38. JMC asserts that some or all of the claims against it are barred by applicable statutes of limitation or statutes of repose.

FOR A THIRTEENTH DEFENSE

39. The RP Companies failed to comply with the terms and conditions of The South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, S.C. Code Ann. §40-59-810; therefore, all claims are subject to being stayed and/or permanently stayed.

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FOR A FOURTEENTH DEFENSE

40. Any recovery by the RP Companies must be reduced or offset by amounts the RP Companies received or will receive from others or that the RP Companies receive directly for the same injuries claimed in this lawsuit.

FOR A FIFTEENTH DEFENSE

41. The RP Companies' claims may be barred by the doctrine of waiver.

FOR A SIXTEENTH DEFENSE

42. Punitive damages, as currently awarded in South Carolina, are violative of the United States Constitution and South Carolina Constitution, as well as the holding of *State Farm Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), and the cases upon which it is based.

FOR A SEVENTEENTH DEFENSE

43. Pursuant to *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424, 121 S.Ct. 1678 (2001), if punitive damages are recoverable, which is denied, the amount of punitive damages "[are] not really a fact tried by the jury;" therefore the RP Companies' request for punitive damages "to be determined by the jury" violates the United States Constitution.

FOR AN EIGHTEENTH DEFENSE

44. The U.S. Constitution's Due Process Clause "forbids a State to use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties or those whom they directly [do not] represent," *Phillip Morris USA v. Williams*, 127 S.Ct. 1057, 1063 (U.S. 2007), and, therefore, to the extent that the RP Companies seek an award of punitive damages for potential or speculative harm to non-parties to the present action, such prayer for relief is unconstitutional and must be struck from the pleadings and is otherwise inadmissible at trial.

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FOR A NINETEENTH DEFENSE

45. Notwithstanding JMC's prior defenses incorporating *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424 (2001) and *State Farm Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408 (2003), and the cases upon which they are based, in the event the trial court permits the jury to return a punitive damages award in the instant case, such damages are to be limited to an amount that is no greater than the jury's award of actual damages, as explicated within *Exxon Shipping Company v. Baker*, 128 S. Ct. 2605 (2008).

FOR A TWENTIETH DEFENSE

46. To the extent punitive damages are claimed in this action, and to the extent that such an award is not in violation of Defendants' rights under the United States Constitution and the South Carolina Constitution, the limitations and cap provided in S.C. Code § 15-32-530 are applicable and this Defendant specifically asserts the statutory cap on punitive damages, pursuant to the South Carolina Court of Appeal's recent decision in *Garrison v. Target Corporation*, Case No. 2017-000267.

FOR A TWENTY-FIRST DEFENSE

47. The work and services that may have been provided by JMC Construction were in conformity with the standard of care for that time.

FOR A TWENTY-SECOND DEFENSE

48. No act or omission by JMC in the performance of its professional services proximately caused the alleged damages for which Plaintiffs now seek to recover and, as a result, the RP Companies are not entitled to any recovery from JMC.

FOR A TWENTY-THIRD DEFENSE

49. Although the RP Companies purportedly have alleged separate crossclaims sounding in indemnity, negligence, breach of warranty, breach of contract, and strict

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liability/products liability, the causes of action asserted against JMC are nothing more than claims for equitable indemnification with slight changes in wording and different titles. Pursuant to *Stoneledge at Lack Keowee Owners' Association, Inc., et al. v. Clear View Construction, LLC, et al.*, 413 S.C. 615, 776 S.E.2d 426 (2015) and *Stoneledge at Lake Keowee Owners' Association, et al. v. Builders Firstsource – Southeast Group, et al.*, 413 S.C. 630, 776 S.E.2d 434 (2015), and other relevant case law, the RP Companies' cross claims are nothing more than different wordings of the equitable indemnity claim and all claims other than for equitable indemnity claim should be dismissed.

FOR A TWENTY-FOURTH DEFENSE

50. JMC asserts that the RP Companies' claims for indemnity fail since the RP Companies cannot be deemed an innocent party and the RP Companies do not have a substantial relationship with JMC.

FOR A TWENTY-FIFTH DEFENSE

51. To the extent the RP Companies assert claims for contractual indemnity, these claims fail to the extent the RP Companies cannot produce the original documentation and/or to the extent its allegations contradict the language of any such subcontract.

FOR A TWENTY-SIXTH DEFENSE

52. JMC asserts that any construction work was performed in conformance with the plans and specifications, as provided and conveyed to JMC, and, therefore, JMC is entitled to a complete defense pursuant to *U.S. v. Spearin*, 39 S.Ct. 59 (U.S. 1918) and the common law that applies the *Spearin Doctrine*.

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FOR A TWENTY-SEVENTH DEFENSE

53. JMC asserts that the various claims set forth in the RP Companies' cross claims asserted in response to Plaintiffs' Second Amended Complaint seek multiple damages on different theories for the same loss, and the RP Companies are not entitled to recover multiple damages for the same loss, as such constitutes a double recovery.

FOR A TWENTY-EIGHTH DEFENSE

54. JMC pleads the RP Companies' acceptance of the work that may have been performed by JMC as a complete defense to the cross claims

FOR A TWENTY-NINTH DEFENSE

55. JMC incorporates by reference any affirmative defenses raised by any other Defendant in this action.

FOR AT THIRTIETH DEFENSE

56. JMC specifically reserves any additional and/or affirmative defenses as may be available to it or revealed to it during the course of the investigation and/or discovery in this case.

WHEREFORE, having fully answered the RP Companies' cross claims asserted in response to Plaintiff's Second Amended Complaint, Defendants named as Jorge Medina, Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC, and Valencia Medina pray for the dismissal of the cross claims, for costs and attorneys' fees defending this action, and for such other and further relief as this Honorable Court deems just and proper.

[signature page attached]

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Respectfully submitted,
COLLINS & LACY, P.C.

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ATTORNEYS FOR JMC CONSTRUCTION, INC. and JMC CONSTRUCTION, LLC

March 12, 2020
Columbia, South Carolina

ELECTRONICALLY FILED - 2020 Mar 13 2:48 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005245

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	NINTH JUDICIAL CIRCUIT
)	
One Hamlin Place Townhome Association, Inc.,)	Civil Action No.: 2017-CP-10-5245
)	
Plaintiff,)	ALL EXTERIORS CONSTRUCTION, LLC'S ANSWER TO THE CROSS CLAIMS ASSERTED BY THE DEFENDANTS IDENTIFIED AS THE RP COMPANIES
)	
vs.)	
)	
John Wieland Homes and Neighborhoods of The Carolinas, Inc. as successor by statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does, (20-50); and Jane Does (41-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource-Southeast Group, LLC; Muhler, LLC a/k/a The Muhler Company, Inc.; YKK (U.S.A.), Inc.; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIPV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential)	(Jury trial demanded)

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Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Gonzalo Guerrero; A-Marc, Inc.; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Mark A. McFarland d/b/a In The Wind, Inc.; Harbor Master, Inc.; Chad Hood; Kinco Ltd. a/k/a Kinco, Inc.; Atrium Companies Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J&R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction, LLC,

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Defendants.

Builders FirstSource-Southeast Group, LLC,

Third-Party Plaintiff,

vs.

AC Construction, Corp.

Third-Party Defendant.

RP Falcon Properties, LLC (f.k.a JW Homes, LLC): RP Falcon Land, LLC (f.k.a JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a Wieland Realty, LLC); and Residential Partners, LLC,

Third-Party Plaintiffs,

vs.

COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC,

Third-Party Defendants.

Comes now Defendant All Exteriors Construction, LLC (hereinafter "All Exteriors") answering the third-party claims asserted by Defendants RP Falcon Properties, LLC, formerly known as JW Homes, LLC; RP Falcon Land, LLC, formerly known as JW Land Investment, LLC; RP Falcon Realty, LLC, formerly known as Wieland Realty, LLC; and Residential Partners, LLC (hereinafter collectively referenced as the "RP Companies") in the RP Companies' answer to the Second Amended Complaint asserted by the Plaintiffs, which pleading by the RP Companies was filed on February 5, 2020 after consent and leave of court was granted, and where All Exteriors is

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not referenced in the caption but is referenced in the body of the pleading, by denying each and every allegation not hereinafter admitted, and further responding as follows:

FOR A FIRST DEFENSE AND BY WAY OF ANSWER

1. Paragraphs numbered 1 through 264 and labeled as the "First Additional Defense" through the "Twenty-Eighth Additional Defense" are the RP Companies' answer and affirmative defenses to Plaintiff's Second Amended Complaint and do not require a response from All Exteriors; however, to the extent a response is required or to the extent these paragraphs can be construed to impart liability on All Exteriors, then these allegations are denied and All Exteriors demands strict proof thereof.

2. In response to Paragraph 265, All Exteriors realleges its response in the paragraph above as if restated here verbatim.

3. In response to Paragraph 266, All Exteriors admits only that Plaintiff has alleged certain claims in its Second Amended Complaint against the RP Companies Defendants as well as against other defendants, but All Exteriors denies all liability that can be construed against it and demands strict proof thereof.

4. Paragraphs 267 through 268, including all subparts, do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

First Cross-Claim
(Indemnity)

5. Paragraphs 269 through 272 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are

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denied.

Second Cross-Claim
(Negligence)

6. In response to Paragraph 273, All Exteriors realleges Paragraphs 1 through 5 above as if restated herein verbatim.

7. Paragraphs 274 through 278 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

Third Cross-Claim
(Breach of Warranty)

8. In response to Paragraph 279, All Exteriors realleges its answers in Paragraphs 1 through 7 above as if restated herein verbatim.

9. Paragraphs 280 through 284 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

Fourth Cross-Claim
(Breach of Contract)

10. In response to Paragraph 285, All Exteriors realleges its answers in Paragraphs 1 through 9 above as if restated herein verbatim.

11. Paragraphs 286 through 289 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

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Fifth Cross-Claim
(Strict Liability/Products Liability)

12. In response to Paragraph 290, All Exteriors realleges its answers in Paragraphs 1 through 11 above as if restated herein verbatim.

13. Paragraphs 291 through 296 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

Third-Party Allegations

14. In response to Paragraph 297, All Exteriors realleges its answers in Paragraphs 1 through 13 above as if restated here verbatim.

15. In response to Paragraph 298, All Exteriors admits only that Plaintiff has alleged certain claims in its Second Amended Complaint against the RP Companies Defendants as well as against other defendants, but All Exteriors denies all liability that can be construed against it and demands strict proof thereof.

16. In response to Paragraph 299, subpart "a," All Exteriors states only that, upon information and belief, it performed work on the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11 but performed no work on the One Hamlin Place building numbered 1, 2, 3, and 4. Upon information and belief, the John Wieland Homes and Neighborhoods of the Carolinas, Inc., etc. entities built the One Hamlin Place buildings numbered 1, 2, 3, and 4. All Exteriors lacks sufficient knowledge or information to admit or deny which of the RP Companies, if any, built the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11 and All Exteriors lacks sufficient knowledge or information to respond to the allegations against other defendants and, therefore, All Exteriors denies the remaining allegations contained in Paragraph 299.

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17. In response to Paragraph 300, upon information and belief, All Exteriors admits that the RP Companies have denied the allegations alleged against them by the Plaintiffs, but All Exteriors denies all liability that could be construed against it.

First Third-Party Claim
(Indemnity)

18. All Exteriors denies the allegations contained in Paragraphs 301 through 304 and demands strict proof thereof.

Second Third-Party Claim
(Negligence)

19. In response to Paragraph 305, All Exteriors realleges its answers in Paragraphs 1 through 18 above as if restated here verbatim.

20. All Exteriors denies the allegations contained in Paragraphs 306 through 310 and demands strict proof thereof.

Third Third-Party Claim
(Breach of Warranty)

21. In response to Paragraph 311, All exteriors realleges its answers in Paragraphs 1 through 20 above as if restated here verbatim.

22. In response to Paragraph 312, All Exteriors admits only that whatever work it performed on the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11 was performed in a workmanlike manner and in accordance with the applicable building code, plans, specifications, and industry standards and All Exteriors denies all allegations inconsistent with this response. Further responding, All Exteriors denies it provided any express warranty to the RP Companies.

23. All Exteriors denies the allegations contained in Paragraphs 313 through 316 and demands strict proof thereof.

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Fourth Third-Party Claim
(Breach of Contract)

24. In response to Paragraph 317, All Exteriors realleges its answers in Paragraphs 1 through 23 above as if restated here verbatim.

25. In response to Paragraphs 318 and 319, All Exteriors denies that it entered into any written subcontracts for whatever work it performed on the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11. Further responding, All Exteriors lacks sufficient knowledge or information to admit or deny which of the RP Companies, if any, were responsible for building the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11 and, therefore, All Exteriors denies the remaining allegations contained in Paragraphs 318 and 319.

26. All Exteriors denies the allegations contained in Paragraphs 320 and 321 and demands strict proof thereof.

27. All Exteriors denies that the RP Companies are entitled to their requested relief contained in the unnumbered "Wherefore" paragraph and demand strict proof thereof.

FOR A SECOND DEFENSE

28. The RP Companies' cross claims fail to set forth sufficient facts to constitute a cause of action and, therefore, should be dismissed pursuant to Rule 12(b)(6), SCRCP.

FOR A THIRD DEFENSE

29. Even if All Exteriors was negligent in any respect, which is expressly denied, and such conduct operated as a proximate cause of the RP Companies' injuries, if any, which is expressly denied, All Exteriors alleges the RP Companies' negligent, grossly negligent, reckless, willful, and wanton conduct contributed more than fifty percent (50%) to the cause of the accident, and therefore, the RP Companies' claims are barred.

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FOR A FOURTH DEFENSE

30. Even if All Exteriors was negligent in any respect, which is expressly denied, and even if such conduct on the part of All Exteriors operated as a greater than fifty percent (50%) cause of the RP Companies' injuries, if any, which is also denied, All Exteriors is entitled to a determination as to the percentage which the RP Companies' negligent, grossly negligent, reckless, willful, and wanton conduct contributed to the RP Companies' accident and resulting injuries, if any, and to a reduction of any amount awarded to the RP Companies by an amount equal to the percentage of the RP Companies' own negligence.

FOR A FIFTH DEFENSE

31. Such injuries or losses as the RP Companies sustained, if any, were caused by the contributory negligence, carelessness, recklessness, willfulness, and wantonness of the RP Companies and All Exteriors pleads the RP Companies' contributory negligence as a complete defense to this action.

FOR A SIXTH DEFENSE

32. Any injuries or damages sustained by the RP Companies were due to and caused and occasioned by the RP Companies' own negligence, gross negligence, recklessness, willfulness, and wantonness which was the direct and proximate cause of the RP Companies' alleged injuries or damages, if any, and without which the same would not have occurred, and therefore, due to the RP Companies' sole negligence, gross negligence, recklessness, willfulness, and wantonness, the RP Companies' claims are barred.

FOR A SEVENTH DEFENSE

33. Any injuries sustained by the RP Companies were due to and caused by the sole negligence of third persons over whom All Exteriors had no control, and therefore, All Exteriors

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should not be liable to the RP Companies in any sum whatsoever.

FOR AN EIGHTH DEFENSE

34. Any injuries sustained by the RP Companies were due to and caused by the intervening and superseding acts of negligence, carelessness, recklessness, and gross negligence on the part of third persons as a proximate cause of injuries as alleged, if any, and therefore, All Exteriors should not be liable to the RP Companies in any sum whatsoever.

FOR A NINTH DEFENSE

35. The RP Companies' claims may be barred by the doctrine of estoppel.

FOR A TENTH DEFENSE

36. The RP Companies' claims may be barred or otherwise reduced due to the failure to mitigate damages as required by law.

FOR AN ELEVENTH DEFENSE

37. The RP Companies' claims may be barred by the doctrine of laches.

FOR A TWELFTH DEFENSE

38. All Exteriors asserts that some or all of the claims against it are barred by applicable statutes of limitation or statutes of repose.

FOR A THIRTEENTH DEFENSE

39. The RP Companies failed to comply with the terms and conditions of The South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, S.C. Code Ann. §40-59-810; therefore, all claims are subject to being stayed and/or permanently stayed.

FOR A FOURTEENTH DEFENSE

40. Any recovery by the RP Companies must be reduced or offset by amounts the RP Companies received or will receive from others or that the RP Companies receive directly for the

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same injuries claimed in this lawsuit.

FOR A FIFTEENTH DEFENSE

41. The RP Companies' claims may be barred by the doctrine of waiver.

FOR A SIXTEENTH DEFENSE

42. Punitive damages, as currently awarded in South Carolina, are violative of the United States Constitution and South Carolina Constitution, as well as the holding of *State Farm Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), and the cases upon which it is based.

FOR A SEVENTEENTH DEFENSE

43. Pursuant to *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424, 121 S.Ct. 1678 (2001), if punitive damages are recoverable, which is denied, the amount of punitive damages "[are] not really a fact tried by the jury;" therefore the RP Companies' request for punitive damages "to be determined by the jury" violates the United States Constitution.

FOR AN EIGHTEENTH DEFENSE

44. The U.S. Constitution's Due Process Clause "forbids a State to use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties or those whom they directly [do not] represent," *Phillip Morris USA v. Williams*, 127 S.Ct. 1057, 1063 (U.S. 2007), and, therefore, to the extent that the RP Companies seek an award of punitive damages for potential or speculative harm to non-parties to the present action, such prayer for relief is unconstitutional and must be struck from the pleadings and is otherwise inadmissible at trial.

FOR A NINETEENTH DEFENSE

45. Notwithstanding All Exteriors' prior defenses incorporating *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424 (2001) and *State Farm Mutual Automobile*

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Insurance Company v. Campbell, 538 U.S. 408 (2003), and the cases upon which they are based, in the event the trial court permits the jury to return a punitive damages award in the instant case, such damages are to be limited to an amount that is no greater than the jury's award of actual damages, as explicated within *Exxon Shipping Company v. Baker*, 128 S. Ct. 2605 (2008).

FOR A TWENTIETH DEFENSE

46. To the extent punitive damages are claimed in this action, and to the extent that such an award is not in violation of Defendants' rights under the United States Constitution and the South Carolina Constitution, the limitations and cap provided in S.C. Code § 15-32-530 are applicable and this Defendant specifically asserts the statutory cap on punitive damages, pursuant to the South Carolina Court of Appeal's recent decision in *Garrison v. Target Corporation*, Case No. 2017-000267.

FOR A TWENTY-FIRST DEFENSE

47. The work and services that may have been provided by All Exteriors were in conformity with the standard of care for that time.

FOR A TWENTY-SECOND DEFENSE

48. No act or omission by All Exteriors in the performance of its professional services proximately caused the alleged damages for which Plaintiffs now seek to recover and, as a result, the RP Companies are not entitled to any recovery from All Exteriors.

FOR A TWENTY-THIRD DEFENSE

49. Although the RP Companies purportedly have alleged separate third-party claims sounding in indemnity, negligence, breach of warranty, breach of contract, the causes of action asserted against All Exteriors are nothing more than claims for equitable indemnification with slight changes in wording and different titles. Pursuant to *Stoneledge at Lack Keowee Owners' Association, Inc., et al. v. Clear View Construction, LLC, et al.*, 413 S.C. 615, 776 S.E.2d 426

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(2015) and *Stoneledge at Lake Keowee Owners' Association, et al. v. Builders Firstsource – Southeast Group, et al.*, 413 S.C. 630, 776 S.E.2d 434 (2015), and other relevant case law, the RP Companies' cross claims are nothing more than different wordings of the equitable indemnity claim and all claims other than for equitable indemnity claim should be dismissed.

FOR A TWENTY-FOURTH DEFENSE

50. All Exteriors asserts that the RP Companies' claims for indemnity fail since the RP Companies cannot be deemed an innocent party and the RP Companies do not have a substantial relationship with All Exteriors.

FOR A TWENTY-FIFTH DEFENSE

51. To the extent the RP Companies assert claims for contractual indemnity, these claims fail to the extent the RP Companies cannot produce the original documentation and/or to the extent its allegations contradict the language of any such subcontract.

FOR A TWENTY-SIXTH DEFENSE

52. All Exteriors asserts that any construction work was performed in conformance with the plans and specifications, as provided and conveyed to All Exteriors, and, therefore, All Exteriors is entitled to a complete defense pursuant to *U.S. v. Spearin*, 39 S.Ct. 59 (U.S. 1918) and the common law that applies the *Spearin Doctrine*.

FOR A TWENTY-SEVENTH DEFENSE

53. All Exteriors asserts that the various claims set forth in the RP Companies' cross claims asserted in response to Plaintiffs' Second Amended Complaint seek multiple damages on different theories for the same loss, and the RP Companies are not entitled to recover multiple damages for the same loss, as such constitutes a double recovery.

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FOR A TWENTY-EIGHTH DEFENSE

54. All Exteriors pleads the RP Companies' acceptance of the work that may have been performed by All Exteriors as a complete defense to the cross claims

FOR A TWENTY-NINTH DEFENSE

55. All Exteriors incorporates by reference any affirmative defenses raised by any other Defendant in this action.

FOR AT THIRTIETH DEFENSE

56. All Exteriors specifically reserves any additional and/or affirmative defenses as may be available to it or revealed to it during the course of the investigation and/or discovery in this case.

WHEREFORE, having fully answered the RP Companies' cross claims asserted in response to Plaintiff's Second Amended Complaint, Defendant All Exteriors Construction, LLC pray for the dismissal of the cross claims, for costs and attorneys' fees defending this action, and for such other and further relief as this Honorable Court deems just and proper.

[signature page attached]

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Respectfully submitted,
COLLINS & LACY, P.C.

By: /s/ Andrew N. Cole

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ATTORNEYS FOR DEFENDANT ALL EXTERIORS CONSTRUCTION, LLC

March 12, 2020
Columbia, South Carolina

ELECTRONICALLY FILED - 2020 Nov 11 9:46 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005246

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50), Plaintiffs, vs. John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; Wheelock Street Investment Management I, LLC; Wheelock Street Investment Management II, LLC; Wheelock Street Investment Management III, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (45-50);	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT CASE NO: 2017-CP-10-5246 **THIRD AMENDED SUMMONS** **(Jury Trial Demanded)**

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AC Construction, Inc.; Scott Parker, individually; Builders FirstSource – Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK (U.S.A), Inc.; Wheelock Street Real Estate Fund I, LP; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Gonzalo Guerrero; A-Marc, Inc..; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Chad Hood; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers

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Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J & R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction LLC;	)
Defendants.	)

IF YOU ARE IDENTIFIED IN **BOLD** PRINT, YOU ARE HEREBY SUMMONED and required to answer the Third Amended Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Summons and Complaint upon the subscribers at their office at P.O. Box 22497, Charleston, South Carolina within 30 days after the service hereof, exclusive of the day of such service, and if you fail to answer within the prescribed time, a judgment by default will be rendered against you for the amount or other remedy requested in the attached Complaint, plus interests and costs.

All other parties who have been previously named and served in the above-referenced action are hereby summoned and required to answer the Plaintiffs' Third Amended Complaint and to serve a copy of your Answer to the Third Amended Complaint upon the subscribers at their office at P.O. Box 22497, Charleston, South Carolina, **within the time prescribed pursuant to SCRCP 15(a)**, and if you fail to answer within the prescribed time, a judgment by default will be rendered against you for the amount or other remedy requested in the attached Complaint, plus interests and costs.

[Signature Page to Follow]

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HAYES LAW FIRM, LLC

s/ John C. Hayes, IV

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ATTORNEYS FOR PLAINTIFFS

November 11, 2020
Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Nov 11 9:46 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005246

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	CASE NO: 2017-CP-10-5246
)	
Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50),)	**THIRD AMENDED VERIFIED COMPLAINT (Jury Trial Demanded)**
Plaintiffs,)	
)	
vs.)	
)	
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; Wheelock Street Investment Management I, LLC; Wheelock Street Investment Management II, LLC; Wheelock Street Investment Management III, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (45-50);)	

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AC Construction, Inc.; Scott Parker, individually; Builders FirstSource – Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK (U.S.A), Inc.; Wheelock Street Real Estate Fund I, LP; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Gonzalo Guerrero; A-Marc, Inc..; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Chad Hood; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers

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Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J & R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction LLC;	)
Defendants.	)

The Plaintiff, Gary Keisler as Class Representative, and the above-named Plaintiffs (hereinafter collectively referred to as "Plaintiffs"), individually and as a class of similarly situated owners of townhome units in a residential townhome community named One Hamlin Place Townhomes complaining of the above-mentioned Defendants, allege and state as follows:

1. Plaintiff, Gary Keisler, is a citizen and resident of Charleston County, South Carolina, who at all times relevant hereto lives in a residential community known as One Hamlin Place Townhomes, located in Mount Pleasant, South Carolina, Plaintiff Gary Keisler further alleges and states that he is bringing this action pursuant to Rule 23, SCRCP, as representing a class composed of each and every unit owner in the One Hamlin Place Townhome Association, Inc., and that:

a) The class is so numerous that joinder of all members is impracticable;

b) There are questions of law and fact common to the class;

c) The claims of the Plaintiff, Gary Keisler, are typical of the claims of the class;

d) The Plaintiff, Gary Keisler, will fairly and adequately protect the interest of the class; and

e) The amount in controversy exceeds One Hundred Dollars ($100.00) for each member of the class.

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2. The individual Plaintiffs are citizens and residents of Charleston County, South Carolina, who at all times relevant hereto live in a residential community known as One Hamlin Place Townhomes, located in Mount Pleasant, South Carolina.

3. Plaintiffs who are the original purchasers of their respective townhome units in One Hamlin Place Townhomes, and shall hereinafter be referred to collectively as "Original Purchasers".

4. One Hamlin Place Townhomes (hereinafter collectively referred to "the property" or "One Hamlin") is a section of the residential community, Hamlin Plantation, located in Mount Pleasant, South Carolina and, upon information and belief, was owned, developed, marketed and constructed by the Defendants.

5. Defendants John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc.; AC Construction, Inc.; Annisquam Development, LLC; Jorge Medina and JMC Construction, Inc.; Muhler, LLC a/k/a The Muhler Company, Inc.; A-Marc, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Neighborhood Management Associates, Inc.; Tru-Don Contracting, Inc.; Fine Builders, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc..; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; J & R Construction, LLC; and Cohen's Drywall Company, LLC are, upon information and belief, corporations organized and existing under the laws of the State of South Carolina and are authorized to conduct business in this state. Scott Parker; Paul M. Vasquez; Valencia Medina; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larson Co.; Billie

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and Antonio Arias d/b/a Antonio Arias Framing Construction; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Gonzalo Guerrero; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; William C. Mulhern d/b/a Bill's Painting; Chad Hood; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez d/b/a GR Painting; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Latitude Construction Services, LLC; and Richard Ditullio a/k/a RDT Contracting, LLC are, upon information and belief, contractors licensed in the State of South Carolina.

6. Defendants Bridgemill Land, LLC; Builder Support Services of the Carolinas, Inc.; Builders FirstSource – Southeast, LLC; John Wieland Homes and Neighborhoods of the Carolinas, Inc.; John Wieland Homes and Neighborhoods of Charleston, Inc.; JW Homes, LLC; JW Land Investment, LLC; JWC Guilford, LLC; JWC Phoenix, LLC; JWH RPIV, LLC; Middlesex Holdings, LLC; OOTB, LLC; Residential Partners, LLC; RP Falcon Properties, LLC; RP Falcon Realty, LLC; RP Falcon Land, LLC; Wheelock Street Capital, LLC; Wheelock Street Investment Management, LLC; Wheelock Street Investment Management I, LLC; Wheelock Street Investment Management II, LLC; Wheelock Street Investment Management III, LLC; Wheelock Street Real Estate Fund, LP; Wheelock Street Real Estate Fund I, LP; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; Wieland Realty, LLC; WS JWH, LLC; WSREF NRT, LLC; and YKK (U.S.A.), Inc.; East Coast Drywall Systems, Inc.; The Contractor Yard, Inc.; All American Roofing and Construction, LLC; and Leor Construction LLC, upon information and belief, are foreign corporations that transact business in the State of South

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Carolina. John Wieland, Sue Wieland, Lindsey Parker, Jack Wieland, and Robert Parker are, upon information and belief, residents of foreign states and transact business in South Carolina.

7. Upon assuming the roles as stated below, the Defendants assumed the duties thereof to develop, construct, and market the property and sell parcels thereof to the general public.

8. Furthermore, in assuming the roles stated below, the Defendants undertook to make certain that this Community was developed and constituted in a workmanlike fashion according to industry standards meeting all applicable codes, guidelines, restrictions, of any and all state, county, and municipal authorities.

9. That pursuant to this marketing scheme, the Defendants extensively advertised to the general public and represented to the general public that *inter alia*, the property and homes built would be of the highest quality, with substantial amenities.

10. This Court has jurisdiction over the parties and subject matter hereto.

11. The construction of One Hamlin was performed by one or more of the Defendants. The Defendants represented they were competent, knowledgeable and experienced in performing such construction work as to properly build One Hamlin according to the normal standards of good and workmanlike practice in the construction field.

12. Construction defects in the One Hamlin community have recently been discovered. A recent inspection of the subject Townhomes resulted in the discovery of major problems and deficiencies including but not limited to the following:

(a) Lack of proper flashing;

(b) Lack of proper roofing installation;

(c) Water damage along porches;

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(d) Water and moisture intrusion damage resulting from defects including but not limited to the photographs attached as Exhibits 1-16;

(e) Improper flashing installation

(f) Numerous other construction defects that have caused consequential damages to the buildings and require repair.

13. Defendant John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. (hereinafter referred to as "Wieland SC") was a foreign corporation organized and existing under the laws of the State of Georgia and, at all times relevant hereto, was authorized to and did conduct business in the State of South Carolina, County of Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, selling, and constructing the townhomes in a manner for sale to the public. It is currently known as Builder Support Services of the Carolinas, Inc.

14. Defendant John Wieland Homes of Charleston, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia and was authorized to conduct business in this state for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public. It is currently known as Builder Support Services of the Carolinas, Inc.

15. Defendant John Wieland Homes, Inc., n/k/a John Wieland Homes and Neighborhoods of South Carolina, Inc., upon information and belief, was a corporation organized and existing under the laws of the State of South Carolina and was authorized to conduct business in this state, and had a principal place of business in Charleston County

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Charleston for the purpose of planning, developing, marketing, owning, maintaining, leasing, sale, and constructing the townhomes in a manner for sale to the public.

16. Defendants John Wieland Homes and Neighborhoods of the Carolinas, Inc., John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., and John Wieland Homes, Inc. (hereinafter referred to as the "Old Wieland Entities") developed, marketed and sold homes in South Carolina and upon information and belief sold all major assets to entities listed below in an attempt to conceal, delay, and frustrate their creditors' attempts to satisfy the Old Wieland Entities' liabilities.

17. Defendant Builder Support Services of the Carolinas, Inc., upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia and is authorized to conduct business in this state. It was formerly known as John Wieland Homes and Neighborhoods, Inc.

18. Defendant Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc. is a foreign corporation organized and existing under the laws of the State of Delaware which describes its business as that of real estate investments and is authorized to conduct business in this state. It is a joint venture formed in November 2012 with the Wieland Defendants where John Wieland Homes and Neighborhoods, Inc. sold to Wheelock Street Capital.

19. Defendant Wheelock Street Real Estate Fund, LP, along with Defendant Wheelock Street Real Estate Fund I, LP (previously identified as Wheelock Street Real Estate Fund, LP), are limited partnerships between Wheelock Street Capital, LLC and other entities organized and existing under the laws of the State of Delaware which transact business in the State of South Carolina.

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20. Defendant Wheelock Street Investment Management, LLC, along with Defendants Wheelock Street Investment Management I, LLC, Wheelock Street Investment Management II, LLC, and Wheelock Street Investment Management III, LLC (previously identified as Wheelock Street Investment Management, LLC), upon information and belief, are foreign corporations organized and existing under the laws of the State of Delaware, which transact business in the State of South Carolina.

21. Defendant RP Falcon Properties, LLC, formerly known as JW Homes, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

22. Defendant Residential Partners, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

23. Defendant Middlesex Holdings, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

24. Defendant WS JWH, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

25. Defendant JWC Phoenix, LLC, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in South Carolina.

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26. Defendant Bridgemill Land, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in South Carolina.

27. Defendant Annisquam Development, LLC, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina.

28. Defendant JW Land Investment, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in South Carolina. It is currently known as RP Falcon Land, LLC.

29. Defendant JWC Guilford, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

30. Defendant OOTB, LLC, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

31. Defendant Wieland Realty Associates, Inc., also known as JW Realty Associates, Inc., upon information and belief, was a foreign corporation organized and existing under the laws of the State of Georgia, which transacted business in South Carolina.

32. Defendant Wheelock Street Real Estate Fund II, LP, previously identified as Jane Doe 30, is a limited partnership organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

33. Defendant Wheelock Street Real Estate Fund V, LP, previously identified as Jane Doe 31, is a limited partnership organized and existing under the laws of the State of Delaware which transacts business in the State of South Carolina.

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34. Defendant WSREF NRT, LLC, previously identified as Jane Doe 32, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

35. Defendant JW Homes, LLC, previously identified as Jane Doe 33, upon information and belief, was a foreign corporation organized and existing under the laws of the State of Delaware, which transacted business in the State of South Carolina. It is currently known as RP Falcon Properties, LLC.

36. Defendant JWH RPIV, LLC previously identified as Jane Doe 34, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

37. Defendant RP Falcon Land, LLC f/k/a JW Land Investment, LLC, previously identified as Jane Doe 35, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

38. Defendant Wieland Realty, LLC a/k/a RP Falcon Realty, LLC, previously identified as Jane Doe 36, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

39. Defendant RP Falcon Realty, LLC f/k/a Wieland Realty, LLC previously identified as Jane Doe 37, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

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40. Defendant Residential Partners II, LLC previously identified as Jane Doe 38, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

41. Defendant Residential Partners III, LLC previously identified as Jane Doe 39, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

42. Defendant Residential Partners IV, LLC previously identified as Jane Doe 40, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Delaware, which transacts business in the State of South Carolina.

43. Defendants Builder's Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC, Wheelock Street Real Estate Fund I, II, and V, LP, Wheelock Street Investment Management, LLC, Wheelock Street Investment Management I, LLC, Wheelock Street Investment Management II, LLC, Wheelock Street Investment Management III, LLC, RP Falcon Properties, LLC, Residential Partners I, II, III, and IV, LLC, Middlesex Holdings, LLC, WS JWH, LLC, JWC Phoenix, LLC, Bridgemill Land, LLC, Annisquam Development, LLC, JW Land Investment, LLC, JWC Guilford, LLC, OOTB, LLC, Wieland Realty Associates, Inc., WSREF NRT, LLC, JWH RPIV, LLC, RP Falcon Land, LLC, and Wieland Realty, LLC a/k/a Falcon Realty, LLC (hereinafter referred to as "Wieland Group"), upon information and belief were all organized in such a manner where there is or are:

(a) a substantial relationship between the transferors and transferees of assets;

(b) a retaining of benefits of the transfers for the Old Wieland entities;

(c) secrecy and concealment of terms and negotiations;

(d) circumstances leading to the conclusion that the intent was to delay and hinder creditors from obtaining satisfaction of liabilities;

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(e) evidence that the Wieland Group are mere successors in interest and a continuation of the Old Wieland Entities; and

(f) evidence that the entities were operated in such a manner where distinctions between the entities are blurred and should be amalgamated for purposes of judgment.

44. Defendant John Wieland, upon information and belief, is an individual with his primary place of domicile in the State of Georgia. Wieland was the founder, owner, controller, and public face of the above Wieland Entities.

45. Defendant Sue Wieland is the wife of Defendant John Wieland. Upon information and belief, Sue Wieland's place of domicile is in the State of Georgia.

46. Defendants Lindsey Parker and Jack Wieland are the daughter and son of John and Sue Wieland, and Defendant Robert Parker is the son-in-law of John and Sue Wieland. Upon information and belief, Jack Wieland's place of domicile is in the State of Georgia; Robert and Lindsey Parker's place of domicile is in Massachusetts.

47. Defendants John Wieland, Sue Wieland, Jack Wieland, Robert and Lindsey Parker (hereinafter referred to as "Wieland Family") all owned and controlled the Old Wieland Entities. Also, upon information and belief, the Wieland Family own and control the Wieland Group.

48. The Wieland Entities and Wieland Family held, owned, controlled, and/or held additional real estate inventory in additional single purpose entities (SPE) (hereinafter referred to as "Wieland SPE affiliates").

49. The Wieland SPE affiliates were publicly owned and controlled in the names of Sue Wieland and/or Robert Parker.

50. The use of Wieland SPE affiliates and Wieland Group was for the purpose of hindering the creditors of the Old Wieland Entities.

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51. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the asset sale to Defendant Residential Partners which, upon information and belief, is owned and controlled by the Wieland Family.

52. Defendant Jorge Medina, individually and d/b/a JMC Construction, LLC a/k/a JMC Construction, Inc. (hereinafter referred to as "JMC"), upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, JMC performed siding, cornice, trim and roofing labor.

53. Upon information and belief, John Does 20-50 and Jane Does 41-50 are individuals or entities organized pursuant to the laws of the State of South Carolina or other states. At all times relevant herein, John Does 20-50 and Jane Does 41-50 were engaged in the business of selling, constructing homes, renovating, supplying products materials and/or services to that end in Charleston, South Carolina.

54. Defendant AC Construction, Inc. previously identified as Jane Doe 1, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. At all times relevant to this action, AC Construction, Inc. performed roofing and framing work at the subject property, in Charleston County, South Carolina.

55. Defendant Scott Parker (hereinafter referred to as "Parker") previously identified as John Doe 1, upon information and belief, is a General Contractor licensed in the State of South Carolina. Also, upon information and belief, Parker worked as a neighborhood manager for John Wieland Homes and Neighborhoods.

56. Defendant Builders FirstSource – Southeast Group, LLC previously identified as Jane Doe 2, upon information and belief, is a limited liability company organized and existing

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under the laws of the State of Delaware, which transacts business in South Carolina and supplied framing and roofing materials.

57. Defendant Muhler LLC a/k/a The Muhler Company, Inc. previously identified as Jane Doe 3, upon information and belief, is a domestic corporation organized and existing under the laws of the State of South Carolina and produced, supplied, and installed windows at One Hamlin Place.

58. YKK (U.S.A.), Inc. previously identified as Jane Doe 4 is a foreign corporation organized and existing under the laws of the State of New York, which transacts business in South Carolina and produced, supplied, and installed windows at One Hamlin Place.

59. Defendant Paul M. Vasquez (hereinafter referred to as "Vasquez") previously identified as John Doe 2, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Vasquez supplied, sold, and installed windows and doors, together with all associated and related waterproofings and flashings, and other work at the subject property.

60. Defendant Neighborhood Management Associates, Inc. previously identified as Jane Doe 5, upon information and belief, is a corporation organized and existing under the laws of the State of Georgia. Also, upon information and belief, Neighborhood Management Associates served as the property management company for One Hamlin Place.

61. Defendants Billie and Antonio Arias d/b/a Antonio Arias Framing Construction (hereinafter referred to as "Arias") previously identified as John Doe 3, upon information and belief, are contractors licensed in the state of South Carolina. Also, upon information and belief, Arias performed framing and related labor at One Hamlin Place.

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62. Defendant Tru-Don Contracting, Inc. (hereinafter referred to as "Tru-Don") previously identified as Jane Doe 6, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Tru-Don performed roofing and related framing work at One Hamlin Place.

63. Defendant Fine Builders, LLC previously identified as Jane Doe 7 (hereinafter referred to as "Fine"), upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Fine performed framing and related labor on townhomes at One Hamlin Place.

64. Defendant Jose Alfredo Sandoval (hereinafter referred to as "Sandoval") previously identified as John Doe 4, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Sandoval performed framing and related labor on townhomes at One Hamlin Place.

65. Defendant Ivan Jose Paiz d/b/a Jose Construction (hereinafter referred to as "Jose") previously identified as John Doe 6, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Jose performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

66. Defendant William B. Angel (hereinafter referred to as "Angel") previously identified as John Doe 7, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Angel performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

67. Defendant East Coast Wall Systems, Inc. (hereinafter referred to as "East Coast") previously identified as Jane Doe 8, upon information and belief, is a corporation organized and

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existing under the laws of the State of North Carolina. Also, under information and belief, East Coast performed framing, sheetrock, and fireproofing labor on townhomes at One Hamlin Place.

68. Defendants Frankcisco and Andrea Dacosta individually and d/b/a AAA Coastline, Inc. (hereinafter referred to as "AAA") previously identified as John Doe 8 and Jane Does 10-11, respectively, upon information and belief, are licensed contractors and operating and existing as a corporation under the laws of the State of South Carolina. Also, upon information and belief, AAA performed framing and related labor on townhomes at One Hamlin Place.

69. Defendant Jack R. Clark individually d/b/a Jack Clark Construction LLC (hereinafter referred to as "Clark") previously identified as John Doe 9, upon information and belief is a licensed South Carolina contractor operating and existing as a limited liability company under the laws of the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

70. Defendant Alex Welch (hereinafter referred to as "Welch") previously identified as John Doe 10, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Welch performed framing and related labor on townhomes at One Hamlin Place.

71. Defendant Gonzalo Guerrero (hereinafter referred to as "Guerrero") previously identified as John Doe 12, upon information and belief, is a contractor licensed in the State of South Carolina. Also, under information and belief, Guerrero performed framing, sheetrock, fireproofing, siding, trim, and related flashing and caulking labor on townhomes at One Hamlin Place.

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72. Defendant A-Marc, Inc. (hereinafter referred to as "A-Marc") previously identified as Jane Doe 13, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, upon information and belief, A-Marc performed framing, sheetrock, fireproofing, and all related labor on townhomes at One Hamlin Place.

73. Defendant Emmanuel Kehagis d/b/a Creative Construction (hereinafter referred to as "Creative") previously identified as John Doe 13, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Creative performed framing and related labor on townhomes at One Hamlin Place.

74. Defendant Anthony Kirksey (hereinafter referred to as "Kirksey") previously identified as John Doe 14, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Kirksey performed framing and related labor on townhomes at One Hamlin Place.

75. Defendant Polly S. Clark d/b/a Glenn Clark Construction (hereinafter referred to as "Clark") previously identified as Jane Doe 14, upon information and belief is a contractor licensed in the State of South Carolina. Also, upon information and belief, Clark performed framing and related labor on townhomes at One Hamlin Place.

76. Defendant Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC (hereinafter referred to as "Mora") previously identified as Jane Doe 15, upon information and belief is a contractor licensed in the State of South Carolina operating and existing as a South Carolina corporation. Also, upon information and belief, Mora performed roofing, masonry, and related flashing and caulking labor on townhomes at One Hamlin Place.

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77. Defendant Daniel L. Rogers d/b/a Dan Rogers Roofing, LLC (hereinafter referred to as "Rogers") previously identified as Jane Doe 16, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina. Also, upon information and belief, Rogers performed roofing and related flashing and caulking labor on townhomes at One Hamlin Place.

78. Defendant William C. Mulhern d/b/a Bill's Painting (hereinafter referred to as "Mulhern") previously identified as Jane Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Mulhern performed sheetrock, fireproofing, painting, sealant installation, and related labor on townhomes at One Hamlin Place.

79. Defendant Chad Hood (hereinafter referred to as "Hood") previously identified as John Doe 16, upon information and belief, is a contractor licensed in the State of South Carolina. Also, upon information and belief, Hood performed window and door installation and related flashing and caulking labor on townhomes at One Hamlin Place.

80. Defendant The Contractor Yard, Inc. (hereinafter referred to as "Contractor Yard") previously identified as Jane Doe 22, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina. Also, under information and belief, Contractor Yard manufactured, supplied, retailed, and installed windows and doors together with related flashing and caulking on townhomes at One Hamlin Place.

81. Defendant New Construction Drywall Hanger, LLC (hereinafter referred to as "Drywall Hanger") previously identified as Jane Doe 23, upon information and belief, is a limited liability company organized and existing under the laws of the State of South Carolina.

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Also, under information and belief, Drywall Hanger performed framing, drywall, sheetrock, fireproofing, and related labor.

82. Defendant Doug Pilcher (hereinafter referred to as "Pilcher") previously identified as John Doe 17, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Pilcher worked as a builder for John Wieland Homes and Neighborhoods at One Hamlin Place.

83. Defendant Michael Cassidy (hereinafter referred to as "Cassidy") previously identified as John Doe 18, upon information and belief, is a contractor licensed in the State of South Carolina. Upon information and belief, Cassidy worked as a quality manager for John Wieland Homes and Neighborhoods at One Hamlin Place.

84. Defendant DBC Construction Services, LLC (hereinafter referred to as "DBC") previously identified as Jane Doe 24, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, DBC performed roofing and all related waterproofing and flashing work on townhomes at One Hamlin Place.

85. Defendant Gerardo Rosette Sanchez, doing business as GR Painting (hereinafter referred to as "GR") previously identified as Jane Doe 25, upon information and belief is a contractor licensed to do business in South Carolina. Also, upon information and belief, GR performed exterior painting services and all related waterproofing, caulking, and flashing work on townhomes at One Hamlin Plantation.

86. Defendant Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC previously identified as Jane Doe 26 (hereinafter referred to as J. Mora), upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of

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South Carolina. Also, upon information and belief, J. Mora performed brick masonry and foundation work along with all related waterproofing, caulking, and flashing on townhomes at One Hamlin Place.

87. Defendant Juan Luis Sanchez a/k/a Sanchez Brothers Painting previously identified as Jane Doe 27, upon information and belief, is a contractor licensed to do business in South Carolina.

88. Defendant Latitude Construction Services, LLC (hereinafter referred to as "Latitude") previously identified as Jane Doe 28, upon information and belief is a South Carolina limited liability company organized and existing under the law of the State of South Carolina. Also, upon information and belief, Latitude performed porch and balcony waterproofing along with all related flashing and caulking on townhomes at One Hamlin Place.

89. Defendant Richard Ditullio a/k/a RDT Contracting, LLC (hereinafter referred to as "RDT") previously identified as Jane Doe 29, upon information and belief is a contractor licensed to do business in South Carolina and operates as a South Carolina limited liability company organized and existing under the laws of the State of South Carolina. Also, under information and belief, RDT performed roofing and all related waterproofing, flashing, and caulking labor.

90. Defendant Valencia Medina, individually previously identified as John Doe 19, upon information and belief, is an agent of JMC Construction, LLC a/k/a JMC Construction, Inc. Also, upon information and belief, Valencia Medina by and through JMC performed framing, siding, cornice, trim and roofing labor.

91. Defendant J & R Construction, LLC a/k/a JJ&R Construction, LLC, previously identified as Jane Doe 41, upon information and belief, is a corporation organized and existing

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under the laws of the State of South Carolina, and provided materials and performed work on the subject residences.

92. Defendant Cohen's Drywall Company, LLC, previously identified as Jane Doe 42, upon information and belief, is a corporation organized and existing under the laws of the State of South Carolina, and provided materials and performed work on the subject residences.

93. Defendant All American Roofing and Construction, LLC, previously identified as Jane Doe 43, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Georgia, which transacts business in the State of South Carolina, and provided materials and performed work on the subject residences.

94. Defendant Leor Construction LLC, previously identified as Jane Doe 44, upon information and belief, is a foreign corporation organized and existing under the laws of the State of Florida, which transacts business in the State of South Carolina, and provided materials and performed work on the subject residences.

95. Upon information and belief, the Wieland Defendants were, in various capacities, individually and collectively engaged in the planning and developing of the Project, and contracted with various entities for the design and construction of the Project.

96. Upon information and belief, one or more of the Wieland Defendants were merged into one or more of the John Wieland Homes and Neighborhoods of South Carolina, Inc. and John Wieland Homes and Neighborhoods, Inc. with the intent to carry on the business of the Wieland Defendants in connection with the Project.

97. Wheelock Street Capital, LLC (hereinafter referred to as Wheelock) d/b/a John Wieland Homes and Neighborhoods, Inc., is a joint venture with the Wieland Defendants formed in November 2012.

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98. Upon information and belief, the ownership of the Project was maintained uninterrupted by the Wieland Defendants during and following the aforementioned merger activities, resulting in ownership and/or control of the Project by the resulting merged entity (the resulting merged entity, including all of the affiliated, subsidiary, or other merged component entities, shall hereinafter be referred to collectively as the "Developer Defendants" and/or "Wieland Defendants").

99. The original developers, John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., and Builder Support Services of the Carolinas, Inc., and JW Homes, LLC shall hereinafter be referred to collectively as the "Original Developer Defendants".

100. The Developer Defendants are all Variable Interest Entities of (as defined by the Financial Accounting Standards Board, among other institutions and authorities) subsidiaries of, parents of, partners of, associates of, agents of, affiliated with, joint venturers, servants, instrumentalities and/or alter ego entities of each other and are responsible to the Plaintiffs herein for the condition of the Project and the damages set forth herein below.

101. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities, during the development of the Project and immediately after sale of the townhomes to members of the public, sought and established a special relationship with the purchasers of the townhomes, and the Developer Defendants, at various times during and after the construction of the townhomes, breached their fiduciary duties to the purchasers in that the Developer Defendants owed dual and conflicting loyalties to themselves, to the Contractor Defendants as set forth below, to the purchasers of the

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townhomes, to the Association established in the Master Deed for the construction of the Project, and to the Plaintiffs.

102. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities had irreconcilable conflicts of interest by virtue of the dual and conflicting loyalties they owed to themselves and to the purchasers and/or tenants of the Project along with the Association established in the Master Deed for the townhomes and the Plaintiffs, all of whose interests were diverse and adverse, one to the other and, as such, the Developer Defendants did not act in good faith or in a manner they could reasonably believe to be in or not opposed to the best interests of the purchasers and/or tenants of the Project along with the Association established in the Master Deed for the townhomes and the Plaintiffs.

103. The Developer Defendants, along with and through their directors, officers, employees, agents, assignees, and subservient and affiliated entities, all participated in self-dealing by promoting their own interests through sacrificing the interests of the purchasers of the Project.

104. In connection with the Project, the Developer Defendants all became and/or acted as subsidiaries, parents, partners, associates, agents, affiliate, co-joint venturers, servants, instrumentalities and/or alter ego entities of each other and are responsible to the Plaintiffs herein for the condition of the Project and the damages set forth herein.

105. The Developer Defendants conducted business in connection with the Project by and through the use and control of subservient entities, and all of these entities in fact manifested no separate interest of their own, and demonstrated an amalgamation of corporate interests,

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entities, and activities so as to blur the legal distinction between any members of that group of corporations, shareholders, officers, agents, partners, employees, and assets.

106. The Defendants listed above, including Paul Vasquez; Muhler; YKK; Neighborhood Management Associates, Inc.; Antonio Arias Framing; Jorge Medina and Valencia Media d/b/a JMC Construction; Tru-Don Contracting, Inc; Fine Builders, LLC; Jose Sandoval; Ivan Paiz d/b/a Jose Construction; William Angel; East Coast Wall Systems, Inc.; Frankcisco and Andrea DaCosta d/b/a AAA Coastline Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Gonzalo Guerrero; A-Marc, Inc.; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly Clark d/b/a Glenn Clark Construction; Benjamin Mora; Daniel L. Rogers d/b/a Dan Rogers Roofing LLC; William C. Mulhern d/b/a Bill's Painting; Chad Hood; Contractor Yard, Inc.; New Construction Drywall Hanger, LLC; DBC Construction Services, LLC; Gerardo Rosette Sanchez d/b/a GR Painting; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Latitude Construction Services, LLC; and Richard Ditullio a/k/a RDT Contracting, LLC (hereinafter referred to collectively as the "Contractor Defendants") provided labor, materials, goods, and services in connection with the construction of the One Hamlin Place Project as contractors, subcontractors, consultants, or independent contractors, or which manufactured, fabricated, and/or otherwise provided construction and building materials, equipment and goods for use in connection with the construction of the Project; and these entities provided labor, materials, goods, and services associated with the original construction of the Project, and the work of each of these defendants was deficient and defective and resulted in damages to the Plaintiffs as set forth below.

107. All Defendants were instrumental in carrying out duties and actions relating to the construction of the Project, and each of these defendants had independent duties under South

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Carolina law to perform their duties in a good and workmanlike manner and in accordance with applicable building codes and accepted building practices.

JURISDICTION

108. Personal jurisdiction is vested and exists in the Court of Common Pleas, County of Charleston, State of South Carolina, and venue is proper in the County of Charleston, State of South Carolina, by virtue of, among other things, the fact that the property which is the subject matter of the Complaint is located in Mt. Pleasant, South Carolina, and the great majority of the activities relating to the Project and the claims herein occurred in this jurisdiction.

WIELAND TRANSACTIONAL BACKGROUND

109. Defendants negotiated a transfer of substantially all assets owned and/or controlled by the Wieland Entities and the Wieland Family to new entities that were jointly owned by Wheelock and the Wieland Family. Ultimately, Wheelock and the Wieland Family reaped a windfall by selling the assets to a third party.

110. It is clear that the Defendants employed a sophisticated scheme to first "launder" and then sell the assets of the John Wieland Homebuilding Enterprises. While the discrete steps of the scheme are less clear, Plaintiffs will set out the currently known facts.

(The 2009 Transactions)

111. The siphoning of valuable assets began as early as 2009. Defendant Robert Parker orchestrated a December 30, 2009 transaction by which 128+ acres in the Bridgemill subdivision (Lancaster County, South Carolina) were sold by John Wieland Homes and Neighborhoods of the Carolinas, Inc. to OOTB, a company run by William Mitchell, a one-time member of Wieland's board of directors. The Defendants' intention was for OOTB to hold the land and eventually sell it back to the evolving Wieland entities.

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112. OOTB reportedly paid Two-Million Dollars ($2,000,000.00) for the Bridgemill land. A year later, in December of 2010, OOTB sold the 128 acres to Annisquam for One-Dollar ($1.00). Annisquam is controlled by John Wieland's immediate family. Next, Annisquam transferred to JW Homes a portion of the 128+ acres it had purchased for One-Dollar ($1.00). The affidavit of consideration for that transfer valued the property at over Seven-Million Five-Hundred and Fifty-Four Thousand Dollars ($7,554,000.00).

113. In a nutshell, the Annisquam/OOTB transaction involved the first *KNOWN* diversion of assets from John Wieland Homes and Neighborhoods of the Carolinas, Inc. to the Wieland Family personally, with the assets ultimately being re-routed into Wheelock.

114. OOTB and Annisquam were created to facilitate the Wieland Family's scheme to remove assets from the reach of creditors.

(The 2012 Transactions)

115. In the fall of 2012, several new corporate entities were created. Residential Partners was formed, or caused to be formed, by Wheelock. JW Homes was formed, or caused to be formed, by Wheelock and/or Residential Partners.

116. JW Land, JWC Phoenix, Middlesex, JWC Guilford were also created in the fall of 2012.

117. Defendants Robert and Lindsey Parker are the sole members and owners of Middlesex.

118. Middlesex is the majority owner of JWC Phoenix.

119. The balance of JWC Phoenix is owned by Defendant Jack Wieland.

120. JWC Phoenix owns a minority interest in Residential Partners.

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121. On or about November 15, 2012, the Old Wieland Entities and the Wieland Family transferred the John Wieland Homebuilding Enterprise to an amalgamation of JW Homes, Residential Partners, Wheelock and others. This transfer included the assets, business, intellectual property, goodwill, management, employees, intellectual property rights contracts, real estate inventory, and substantially all of the ongoing business assets of the Old Wieland Entities and affiliates.

122. Wieland and Robert Parker spearheaded the Wieland Family's negotiation and consummation of the 2012 Transactions.

123. The 2012 Transactions resulted in a joint venture, or *de facto* merger. They involved the Defendants successfully convincing Bank of America, a major lender to the Wieland Entities, to accept less than it was owed, essentially a short sale.

124. The 2012 Transactions represented the sale of substantially all of the homebuilding assets and related intellectual property of the Old Wieland Entities to a new joint venture, a partnership between the Wieland Family and Wheelock.

125. This new partnership carried forward the John Wieland Homes brand and deployed significant new capital resources to drive growth of one of the industry's most well-known names. Included in the transactions were approximately 300 homes and over 5,000 lots in high quality neighborhoods across the Southeast.

126. Defendant John Wieland served as the new company's chairman, directing strategy and providing leadership, vision and support for the new joint venture.

127. The Wieland Family retained their equity and profit interests and substantial control by swapping indirect interests in the pre-November 15, 2012 John Wieland

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Homebuilding Enterprise for indirect interests (and disproportionately large profit interests) in the post-November 15, 2012 John Wieland Homebuilding Enterprise.

128. JW Homes was the operating company for the new partnerships after the 2012 Transactions. There was no visible difference for the public to see between Builders Support and Residential Partners. JW Homes advertised, as the purchaser of the John Wieland Homebuilding Enterprise, that the business had 40 years of existence. JW Homes, part of Wheelock, presented itself as the entity responsible for Waverly. JW Homes, as part of Wheelock, took over the home construction business of the Wieland entity that built Waverly. When Residential Partners/JW Homes bought Builders Supply, nothing about the operation changed.

129. The Defendants functioned as an integrated whole, transferring assets from the Wieland operating entities to newly formed entities at unfairly low prices.

(The Operation of the Enterprise after the 2012 Transactions)

130. After the 2012 Transactions, the John Wieland Homebuilding Enterprise continued unabated, selling approximately 500 residences per year at an average sales price of approximately $450,000.00 per residence, resulting in average annual sales of approximately $22.5 million or better. Upon information and belief, this yielded profits before taxes and interest of approximately $4.0 million per year or more.

131. The operation of the Wieland Homebuilding Enterprise remained virtually unchanged.

132. The new entities, which remained under substantial control by the Wieland Family, advertised and promoted their forty years of homebuilding experience, even though all the new entities were created in the fall of 2012. On its website, JW Homes claims to have been founded in 1970.

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133. JW Homes was in fact a continuation of, and a successor to, the entities that operated the John Wieland Homebuilding Enterprise prior to November 15, 2012:

a. JW Homes operated the John Wieland Homebuilding Enterprise under the "John Wieland" tradename;

b. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same employees;

c. JW Homes continued the John Wieland Homebuilding Enterprise with substantially the same management personnel;

d. JW Homes continued Wieland Homebuilding Enterprise with one or more of the same Board members and/or executive personnel;

e. JW Homes occupied the same corporate office as the Wieland Entities did prior to the 2012 Transactions;

f. JW Homes maintained the same telephone numbers as the Wieland did prior to the 2012 Transactions;

g. JW Homes maintained the same internet and email domain ("jwhomes.com") as the Wieland did prior to the 2012 Transactions;

h. JW Homes continued to market itself utilizing the reputation, awards, experience, and history of Wieland and the Wieland Entities;

i. JW Homes continued to use John Wieland's mantra "enduring core values, known as EPIC: Excellence, Passion, Presentation, Integrity, Completeness".

j. JW Homes continued the John Wieland Homebuilding Enterprise in the same locations in which Wieland previously operated;

k. JW Homes possessed the corporate records of the Old Wieland entities; and

l. Residential Partners and JW Homes expressly assumed most of the warranty obligations of the Wieland Entities.

134. The Wieland Family continued to avail itself of the benefits of the Wieland Homebuilding Enterprise while concealing its continued participation from the public, Plaintiffs included.

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135. The Wieland Entities were subsumed by JW Homes, Wheelock, and Residential Partners at the time of the 2012 Transactions.

136. Upon information and belief, The Old Wieland Entities have defended over one hundred (100) lawsuits claiming defective construction in Charleston County and many more elsewhere.

137. Defendants knew of the Wieland Entities' long history of defective construction.

(Effect on One Hamlin Place Owners)

138. Defendants knowingly and willfully stripped the Wieland Entities of assets and left Wieland with no assets available to compensate their prior clients for defectively constructed homes and/or to rectify the defects.

139. The Wieland-Wheelock interests diverted the key assets out of the Wieland operating companies, including their goodwill, leaving behind judgment-proof corporate shells to be "responsible" for Wieland's defective construction.

140. These corporate entity manipulations, calculated to divert value to Wieland's owners while leaving behind judgment-proof entities, occurred at a time when the Defendants were acutely aware that their construction activities in Charleston were grossly deficient.

141. Plaintiffs have been deprived of recourse and repair monies for their defective homes.

142. Plaintiffs have further had to endure substandard and potentially dangerous living conditions, delays in repairs, and loss of the value of their equity in their homes.

143. For most class members, these townhomes constitute their most significant asset, currently and in retirement, and the impairment of this asset and lack of repair funds causes the Plaintiff class financial stress.

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144. Plaintiffs are incurring increased expenses for temporary repairs while the permanent resolution is delayed by Defendants' activities.

145. The Association's reserves are being depleted by the foregoing, and Plaintiff class members are facing higher regime fees and/or future assessments as a result.

FACTUAL BACKGROUND

146. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if fully set forth herein verbatim.

147. Plaintiffs are informed and believe that the Developer Defendants engaged contractors to construct the Project including 105 properties, and related facilities and amenities, collectively known as One Hamlin Place Townhomes, which were thereafter substantially completed, and contained various buildings. The Developer Defendants, by and through various instrumentalities and alter-egos and other Defendants were the original developers of the Project and/or are liable for the actions of the original Developer of the project.

148. The Developer Defendants created and controlled numerous and various entities including, but not limited to, the John Wieland Homes and Neighborhoods of South Carolina, Inc., Builder Support Services of the Carolinas, and Wieland Defendants set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and leasing of the townhomes that were known as One Hamlin Place Townhomes. The Developer Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities were merely a facade for the operations of the Developer Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein.

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The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between the Developer Defendants and the sham entities, shareholders, officers, agents, partners, employees, assets, and each of them.

149. By way of example, the Wieland Defendants included entities which were created to perform single purpose functions in order to effectuate the sole will of the Developer Defendants in purchasing, developing, leasing, and/or selling the homes. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, the Developer Defendants and the Individual Developer Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

150. The sham entities established by the Developer Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of the Developer Defendants, the Developer Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or the Developer Defendants directly contracted for the sham entities in the name of the Developer Defendants.

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151. The Developer Defendants directed and oversaw those listed as Defendants herein and contractors including the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

152. The Developer Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

153. There would exist a broad element of injustice and fundamental unfairness of the acts of the Developer Defendants, and each of them individually, were not regarded as the acts of one another.

154. The Defendants began the process of constructing the townhomes by engaging and directing the actions of the various contractors and/or subcontractors named as Defendants herein, and participated in the negligent, deficient, and shoddy workmanship which ignored and/or covered up design and construction defects then in existence and, thereafter, placed the units into the stream of commerce for sale, which they did sell to the general public and, in particular, to the current owners who are members of the Association.

155. The Developer Defendants, by and through their instrumentalities and alter-ego entities, controlled and operated the Association and its Board of Directors prior to turning over control of the One Hamlin Association. During this period, the Developer Defendants attempted to carry out construction prior to, during and after the time they offered and sold said townhome units. This work was attempted to be performed by contractors engaged by the Developer

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Defendants for the purpose of expediting the sales process and was calculated for the purpose of, or through careless, reckless, negligent and grossly negligent conduct by the Developer Defendants, resulting in the concealing, fabricating, patching, hiding, and/or cloaking of the deficiencies and damage known, both actually and constructively, to the Developer Defendants and/or their affiliates, subservient entities, agents, and assigns.

156. At the time the units were offered for sale and placed into the stream of commerce by the Developer Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of the Developer Defendants.

157. The Developer Defendants and the Contractor Defendants, and each and every other above-captioned Defendant knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

158. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

159. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

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160. The Plaintiffs suffered damages when the Developer Defendants put these units into the stream of commerce and continue to be damaged through the date of this filing.

161. The Developer Defendants failed to make a sufficient inquiry into the conditions of the Project in order to establish adequate financial reserves for maintenance and repair of the Project, and instead provided inaccurate and misleading information to third-parties in the research and establishment of the reserve figures, and thereby provided inaccurate and misleading reserve requirements and related information to the general public, prospective purchasers, and to the Plaintiffs, both before and after tendering control of the Association and the common elements to the homeowners, all resulting in damages to the Plaintiffs and in violation of South Carolina law, the Master Deed, and the By-laws.

162. The Developer Defendants controlled and managed the Association and its Board of Directors through the use of its subservient entities prior to the tender of the control over the Association to the unit owners; and the Developer Defendants negligently failed to provide sufficient and reasonable information and resources for the proper management and maintenance of the Project; and in fact negligently provided insufficient, inaccurate, and misleading information and prevented the use of financial and other resources required for the proper management and maintenance of the Project, all of which resulted in continued and exacerbated damages to the Project and suffered by the Plaintiffs.

163. The Developer Defendants were engaged in a joint venture, partnership, or other legal or de facto relationship with each other.

164. The Developer Defendants caused, directed, participated in, or acted in willful, reckless, heedless, negligent and grossly negligent disregard of their collective and respective

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acts and omissions in the planning, development, design, construction, management and sale of the units in the Project, all as more fully described herein.

165. The Developer Defendants represented to the public over the internet and through various publications and other media that they, by and through their various affiliates, entities, venturers, and agents referenced herein, were qualified, experienced, and would in fact be directing, managing, and otherwise facilitating the construction and selling of the units, and these representations were relied upon by the Plaintiffs.

166. Prior to and until transferring control of the One Hamlin Association to the unit owners and a newly elected Board of Directors comprised of unit owners, the Developer Defendants, through their subservient and affiliated entities, employees, and agents, had a duty to serve as Board members and to conduct the business of the One Hamlin Association, had authority and control over, and in fact controlled and directed the One Hamlin Association Board of Directors and dictated all of the Board's activities.

167. In conjunction therewith, the Developer Defendants in their capacity as Board members and otherwise, in a negligent manner, carelessly, willfully, wantonly, and with reckless disregard for the rights of the Plaintiffs, participated in, acquiesced in and caused the wrongful acts and omissions described herein.

168. These collective and respective wrongful acts and omissions of the Developer Defendants and such other Defendants as set forth in the causes of action below, represent unfair trade practices and have resulted in substantial deterioration and/or failure of structures and building systems, building deficiencies, actual, incidental, special and consequential damages and loss of use. Remedying the above wrongful acts will result in actual, incidental, consequential, and special damages including loss of use to the Plaintiffs and its members, and

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entitle Plaintiffs and its members to punitive damages and attorney's fees. Further, these wrongful acts and omissions have directly and proximately caused substantial diminution in value, both pre- and post-repair.

169. The acts and omissions of the Defendants were contrary to the duties they owed, individually and collectively, to the Plaintiffs and actually caused damages to the Plaintiffs including, but not limited to, damages which did not result from the acts and omissions of other defendants and including, but not limited to, damages other than damages which resulted in physical injury or damage to tangible real and personal property in connection with this Project.

FOR A FIRST CAUSE OF ACTION
Violation of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, *et seq.*
(Against All Defendants, Except by Original Purchasers Against Original Developers)

170. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

171. Plaintiffs and the Defendants are "persons" within the meaning of S.C. Code § 39-5-10(a).

172. The Defendants, by developing, marketing and constructing the subject Residences, were engaged in commerce within the meaning of S.C. Code § 39-5-10(b).

173. The Defendants' actions, described hereinabove, constitute unfair and deceptive practices within the meaning of S.C. Code § 39-5-20(a).

174. The Defendants' acts are capable of repetition, and, upon information and belief, have been repeated.

175. The Defendants' conduct affects the public interest of South Carolina.

176. The Defendants knew, or reasonably should have known, that their conduct violated the Unfair Trade Practices Act.

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177. As a direct foreseeable and proximate result of the Defendants' unfair and deceptive practices, Plaintiffs have suffered an ascertainable loss of money and property.

178. Plaintiffs are entitled to recover its actual damages, which amount should be trebled, together with interest and attorney's fees.

FOR A SECOND CAUSE OF ACTION
Breach of Implied Warranty
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

179. Plaintiffs repeat and re-allege each and every allegation of this Complaint as if fully set forth herein verbatim.

180. The design, construction, development and sale of the units by these Defendants contained as a matter of law implied warranties of good faith and fair dealing, fitness for use merchantability, habitability, and workmanship with respect to construction, which warranties were not effectively disclaimed under South Carolina law.

181. The Developer Defendants, whether named or unnamed on the Deeds of Transfer, through their acts and/or omissions, have breached the aforesaid implied warranties, which directly, actually, and proximately caused and resulted in damage which the Plaintiffs have suffered and continues to suffer in an amount to be determined by the trier of fact.

182. These Defendants are therefore liable to the Plaintiffs for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

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FOR A THIRD CAUSE OF ACTION
Breach of implied Warranty of Fitness of Habitability
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

183. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

184. That the Defendants impliedly warranted as a matter of law that the subject Residences which they built were habitable and fit for their intended uses.

185. That this implied warranty was breached by the Defendants and the work was performed in a manner below ordinary workmanship and the subject Residences were neither habitable nor fit for their intended use causing damage to Plaintiffs.

FOR A FOURTH CAUSE OF ACTION
Breach of Implied Warranty of Fitness for Particular Purpose
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

186. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

187. The Defendants had the duty to develop, market and construct the subject Residences according to industry standards and in a good and workmanlike manner, and an implied warranty of fitness attached to the sales of these homes.

188. At the time of the sale of the subject Residences to the Plaintiffs, the Defendants had reason to know if any or all parts of the construction of the subject residences were not completed according to industry standards and in a good workmanship manner.

189. The Defendants, at the time of the sale of the subject Residences to the Plaintiffs, had reason to know that the Plaintiffs were relying on the skill and/or judgment of the Defendants to properly construct the homes and adjacent facilities according to industry

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standards and in a good and workmanlike manner. Plaintiffs, in fact, relied on the Defendants' skill and judgment.

190. The Defendants did not properly construct the subject homes and facilities according to industry standards and in a good and workmanlike manner, causing major defects to One Hamlin Place Townhomes.

191. As a result of the Defendants' breach of its implied warranties, Plaintiffs have suffered physical damages.

FOR A FIFTH CAUSE OF ACTION
Breach of Implied Warranties as to the Project's Development and Construction
(Against Developer Defendants and Contractor Defendants, Except by Original Purchasers Against Original Developers)

192. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

193. These Defendants engaged in conduct during the period of development and construction of the Project which gave rise to duties and implied warranties to the public including, but not limited to, tenants, purchasers and other users of the Project, in that by their conduct these Defendants placed the Project, which constitutes defective, deleterious, and dangerous property, into the stream of commerce.

194. The placement of the Project into the stream of commerce by these Defendants, contained as a matter of law implied warranties of fitness, merchantability, workmanship and habitability, which warranties were not effectively disclaimed pursuant to South Carolina law.

195. As a direct and proximate result of the breaches of the above-described implied warranties by these Defendants, their affiliates, associates, sham entities, and/or joint venturers, whether named or unnamed on any documents transferring interest in the Project, the Plaintiffs have suffered and will continue to suffer damages, injuries and other losses.

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196. These Defendants are therefore liable to the Plaintiffs for actual, incidental, special, and consequential damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SIXTH CAUSE OF ACTION
Negligence, Professional Negligence, and Gross Negligence
(Against All Defendants, Except by Original Purchasers Against Original Developers)

197. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

198. Defendants, and each of them, owed a duty to Plaintiffs to act in a manner compliant with the reasonable standard of care, good faith, and fair dealing recognized under South Carolina law, and Defendants violated this duty to the Plaintiffs and were negligent, professionally negligent, grossly negligent, careless, reckless, willful and wanton in one or more of the following particulars:

a) in failing to properly design, construct, develop and repair the townhomes;

b) in failing to comply with the applicable Building Codes of the County of Charleston, the City of Mount Pleasant and the State of South Carolina;

c) in failing to comply with the applicable Fire and Safety Codes of the County and of Charleston, the City of Mount Pleasant and the State of South Carolina;

d) in failing to properly design and construct the structural elements and the foundation and other elements of the Project to permit the existence of an adequate and sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

e) e) in failing to establish and maintain a sufficient program for the treatment, extermination, eradication, colony control, and/or termite control of any kind

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on the Project in accordance with industry standards, due care, and applicable law prior to the sale of the units;

f) in failing to properly supervise the project developer entities and individuals, project architects and engineers, as well as contractors, subcontractors, suppliers and/or agents or employees of any of them in connection with the planning, development, design and construction of the townhomes offered for sale to the public;

g) in manufacturing, fabricating, preparing for the incorporation into a residential building, reviewing, approving, procuring, and incorporating into the construction of this project such items which were defective, deficient, inferior, inadequate, unsafe, dangerous, inappropriate for the use intended, noncompliant with approved design or design intent, non-compliant with applicable codes and standards in the industry, and otherwise improper for use in the project including, but not limited to, HVAC systems, mechanical systems, plumbing systems, drainage systems, and sewer line systems without appropriate clean-out piping and/or other issues; electrical systems and equipment, interior and exterior drywall and other substrate and sheathing material, windows, insulation, roofing, waterproofing systems, and other building materials and supplies, finishes, and other items relating to the construction and ultimate use of this residential project;

h) in designing, constructing, marketing, selling, units and/or property with defective windows;

i) in designing, constructing, marketing, selling, units and/or properly with inadequate flashing;

j) in designing, constructing, marketing, selling, units and/or property with inadequate roofs;

k) in designing, constructing, marketing, selling, units and/or property with inadequate water barriers;

l) in designing, constructing, marketing, selling, units and/or property with without weather proof building envelopes and exteriors;

m) in designing, constructing, marketing, selling, units and/or property which were defective, deficient, inadequate, unsafe, dangerous, or otherwise non-compliant with codes and standards;

n) in placing defective and inferior construction into the stream of commerce;

o) in placing defective and inferior manufactured systems, equipment, building materials and other products into the stream of commerce.

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p) in failing to permit and facilitate a proper evaluation of the condition of the Project prior to and during the process of offering units and other property for the use and sale to the general public and, further, to obstruct and/or hinder efforts to conduct a proper evaluation of the Project by intended purchasers or users;

q) in misrepresenting the condition of the units, common elements, garages and other property to prospective and actual purchasers and other users, and in making representations in negligent and/or intentional disregard of whether these representations were false or inaccurate;

r) in failing to undertake sufficient actions to develop a plan for repairs and otherwise failing to make adequate repairs to conditions at the project which were unsafe, dangerous, or otherwise not in compliance with applicable building codes or other authorities or standards of care;

s) in negligently and/or intentionally covering up deficiencies prior to construction of the units and other property for sale or use by the general public;

t) in failing to determine accurate information required, failing to disclose the absence of such information, as well as negligently and/or intentionally providing misleading and inaccurate information regarding the proper level of financial capitalization and reserve funding required for the operations, maintenance, and repairs required by the One Hamlin Association for the Project and individual unit owners;

u) in tendering common elements and other property to Plaintiffs in a deficient condition;

v) in failing to act as reasonable persons would in circumstances then and there prevailing and in such other failures as will be shown during discovery and at trial.

199. Said failures above-described, as well as the Defendants' gross negligence, willfulness, and reckless disregard for the rights of Plaintiffs and others, have actually and proximately caused damages to Plaintiffs, and the Defendants are liable to the Plaintiffs in an amount of actual, incidental, consequential, special, and punitive damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or

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disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A SEVENTH CAUSE OF ACTION
Negligent Misrepresentation
(Against All Defendants, Except by Original Purchasers Against Original Developers)

200. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein verbatim.

201. These reports and representations were actually published and presented for information to the general public by these Defendants, and these representations were actually received by, and relied upon by, the prospective and actual purchasers of the townhomes at the Project.

202. At the time of the sale of the homes and the turnover of control of the One Hamlin Place Townhome Association from the Developer Defendants to the unit owners, Plaintiffs were not aware of the falsity of the representations or the lack of investigation and lack of candor by these Defendants in connection with the reports.

203. Plaintiffs subsequently determined that the representations made by these Defendants were false and that these Defendants failed to exercise due care, not only in failing to discover defects in the project, but also in failing to communicate information about the true condition of the Project. As a result of its justifiable reliance on the representations, reports, and other documents presented by these Defendants, Plaintiffs and their members have assumed control over the Project and/or purchased units, and have thereby suffered pecuniary losses in an amount to be determined by the trier of fact.

204. As a direct and proximate result of its justifiable reliance on numerous false representations made by these Defendants in connection with the Project, Plaintiffs have

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suffered, and these Defendants are liable to the Plaintiffs for, actual, incidental, consequential, and special damages, all in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN EIGHTH CAUSE OF ACTION
Breach of Fiduciary Duty as to the Developer/Owner Defendant
(Against All Defendants, Except by Original Purchasers Against Original Developers)

205. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

206. The Developer/Owner Defendants had a fiduciary duty and duty of loyalty and good faith dealing to transfer One Hamlin Place Townhomes to the control of the Plaintiffs in a state of good repair. Defendants, having transferred elements with the defects and deficiencies set forth above, in the alternative is required to provide the Plaintiffs with the funds necessary to bring the elements up to standard of reasonably good repair and condition.

207. Defendants breached their fiduciary duty and duty of loyalty and good faith dealing by transferring the elements in a substandard and deficient condition without the funds necessary to bring them up to standards of good repair and condition.

208. As a direct and proximate result and consequence of the Defendants' actions, Plaintiffs have suffered damages in the amount equal to the extraordinary repair, maintenance and reconstruction costs required and expended, and to be required and expended, over the expected life of the buildings and other improvements, loss of use and diminution in value.

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FOR A NINTH CAUSE OF ACTION
Alter Ego Liability and Piercing the Corporate Veil
(Against Developer Defendants, Except by Original Purchasers Against Original Developers)

209. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

210. The Developer Defendants, by and through various instrumentalities and alter-egos and each other were the original developers of the Project, and the Defendants combined and joined together through various instrumentalities and alter egos to facilitate to process of building the townhome units in or about 2006-2007.

211. The Defendants created and controlled numerous and various entities including, but not limited to, the Wieland Defendants and Builder Support Services, Inc. set forth hereinabove, for the sole purpose of the construction, development, purchase of property, sale of property, leasing of townhomes, and other activities solely relating to development and sale of the townhomes that are known as the One Hamlin Place Townhomes. The Defendants created and controlled numerous and various entities including, but not limited to, Wieland, for the sole purpose of the building and sale of the townhomes at the Project. These Defendants created and controlled these sham entities for the sole purpose of enabling it to transact a portion of its business under an alternate corporate guise and to avoid claims such as those set forth herein. These entities, and each of them, were merely a facade for the operations of these Defendants to achieve their financial goals and to perpetrate the activities more particularly described herein. The subservient entities in fact manifested no separate interest of their own and that there was an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between these Defendants and the sham corporations, shareholders, officers, agents, partners, employees, assets, and each of them.

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212. These Defendants created entities which were created to perform single purpose functions in order to effectuate the sole will of these Defendants in purchasing, developing, leasing, and/or selling the units. Despite the creation of these sham entities and despite the sham entities appearing in name only on some contracts, letters, deeds, and/or other documents, these Defendants actively and directly participated in the development, purchase, sale, management, leasing, and/or operations of the Project, and in fact put the same into the stream of commerce.

213. These Defendants created and controlled numerous and various of the Defendant entities for the sole purpose of the planning, development, design, construction, management, purchase, sale of units, and other activities solely relating to the Project which is the subject of this action.

214. The sham entities established by these Defendants were and are characterized by one or more of the following: (1) being undercapitalized; (2) failing to observe corporate formalities; (3) failing to pay dividends; (4) insolvency; (5) lacking proper records; (6) siphoning of funds by its members and/or affiliates; and (7) was used as a mere facade for the operation of the dominant shareholders, members, associates, and affiliates. Upon information and belief, each shared the same mailing address, their business was conducted on the letter head of these Defendants, these Defendants directly received payment and disbursed payment for obligations relating to the sham entities, the sham entities had no shareholders and/or officers of their own, no separation of accounting and bookkeeping functions, and/or these Defendants directly contracted for the sham entities in the name of these Defendants.

215. These Defendants directed and oversaw the Contractor Defendants herein who performed insufficient, shoddy, negligent work which failed to comply with applicable building

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codes and industry standards, all of which has contributed to and resulted in the premature deterioration and/or failure of the structures and building systems in the Project.

216. There would exist a broad element of injustice and fundamental unfairness if the acts of these Defendants, and each of them individually, were not regarded as the acts of one another.

217. At the time the units were offered for sale and placed into the stream of commerce by these Defendants, the units contained numerous defects and/or property damage which has been recently and is currently being discovered by Plaintiffs, all as a direct and proximate result of an investigation initiated by Plaintiffs, as a direct and proximate result of defects and deficiencies heretofore hidden and concealed through the acts and omissions of these Defendants.

218. All Defendants knew or should have known of the existence of the said building defects and deficiencies and property damage, which were latent and unknown to the Plaintiffs.

219. These latent building defects have, unbeknownst to Plaintiffs, regularly resulted in water intrusion into the buildings and property damage and continue to do so through the date of this filing.

220. The latent building defects and property damage have regularly resulted in the deterioration and failure of the structures and building systems, along with the attendant resulting actual, incidental, consequential and special damages, and continue to do so through the date of this filing.

221. The Plaintiffs suffered damages and injuries when these Defendants put these units into the stream of commerce and continue to be damaged and injured through the date of this filing.

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222. As a direct and proximate result thereof, these Defendants are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A TENTH CAUSE OF ACTION
Strict Liability
(Against Developer Defendants, Except by Original Purchasers Against Original Developers)

223. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

224. Each and every townhome unit sold by these Defendants was a product within the meaning of S.C. Code Section 15-73-10, *et seq.*

225. These Defendants are and were engaged in the business of selling the aforesaid townhome units which are within the meaning of S.C. Code Section 15-73-10, *et seq.*

226. The aforesaid townhome units/products were expected to, and in fact did, reach the Plaintiffs herein as Users or Consumers without substantial change in condition in which it was sold within the meaning of Section B of S.C. Code 15-73-10, *et seq.*

227. The townhome units/products which were sold by these Defendants were at the time of sale in a defective condition, unreasonably dangerous to Plaintiffs as Users or Consumers or to the Plaintiffs' property and, as such, these Defendants are strictly liable to Plaintiffs as Users or Consumers herein for the physical harm and damage proximately caused thereby.

228. As a direct and proximate result thereof, Plaintiffs as Users or Consumers have suffered, and these Defendants are liable to the Plaintiffs for actual, incidental, consequential, special and punitive damages, all in an amount to be determined by the trier of fact, and any

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attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR AN ELEVENTH CAUSE OF ACTION
Individual Liability as to the Developer Defendants
(Except by Original Purchasers Against Original Developers)

229. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if more fully set forth herein.

230. As a direct and proximate cause and result of the acts and omissions of these Defendants as aforesaid, Plaintiffs have been damaged, and these Defendants are liable to the Plaintiffs for actual, incidental, consequential, and special damages in an amount to be determined by the trier of fact and any attempts in any contractual agreement for the limitation or disclaimer of warranties, or any other waiver or other limitation, are null, void, unenforceable, and subject to rescission as a matter of law.

FOR A TWELFTH CAUSE OF ACTION
Amalgamation Liability as to John Wieland Homes and Neighborhoods of the Carolinas, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; John Wieland Homes of Charleston, Inc.; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; Wheelock Street Investment Management I, LLC; Wheelock Street Investment Management II, LLC; Wheelock Street Investment Management III, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Wheelock Street Real Estate Fund I, LP; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; and Residential Partners IV, LLC
(Except by Original Purchasers Against Original Developers)

231. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein.

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232. These Defendants have operated in such a manner that the distinctions between the entities and their activities have become blurred.

233. There is excessive interrelationship between the entities and their activities; a sharing of management and employees and other public assets; and an absence of delineation between the entities such that the public is unable to tell where one entity's activities stop and the next entity's activities start.

234. Upon information and belief, these Defendants have been set up as different legal entities so to protect fraud, exercise bad faith, justify wrong, and defeat public policy.

235. Upon information and belief, there is evidence that the blurred legal distinctions of these separate entities have resulted in bad faith, abuse, fraud, wrongdoing, and injustice.

236. Treating these Defendants as separate entities will perpetuate an injustice on Plaintiffs and allow Defendants to unjustly enrich themselves by untoward means.

237. The above listed entities should be amalgamated for purposes of any judgment in this action and viewed as a single business enterprise.

FOR A THIRTEENTH CAUSE OF ACTION
Civil Conspiracy as to All Defendants
(Except by Original Purchasers Against Original Developers)

238. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein.

239. Defendants have conspired and acted in concert and in combination in the above acts with the intent to injure Plaintiffs for Defendants' gain and benefit.

240. Defendants' above-described acts have caused Plaintiffs the above-described special damages.

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241. Plaintiffs are entitled to an award of damages in an amount to be determined by the trier of fact.

242. If it is shown that Defendants' actions were committed maliciously, wantonly, and/or with reckless disregard for the rights of others, Plaintiffs are entitled to an award of punitive damages against Defendants.

FOR A FOURTEENTH CAUSE OF ACTION
Fraudulent Conveyance as to All Defendants
(Except by Original Purchasers Against Original Developers)

243. Plaintiffs repeat and re-allege the allegations contained in the above paragraphs as if fully set forth herein.

244. While on notice of Plaintiffs' potential claims, Defendants engaged in a pattern and practice of transferring assets in an effort to defraud his creditors.

245. The Wieland Family sold all of the Old Wieland Entities' assets, thus depriving the Old Wieland Entities of available resources to satisfy its debtors' claims, including Plaintiffs'.

246. The transfers of the Old Wieland Entities' assets were made for inadequate consideration to the Old Wieland Entities.

247. Defendants knew, or should have known, that creditors, including Plaintiffs, had potential claims against the Old Wieland Entities at the time of the transfers.

248. The transfers were made with an actual or constructive intent to defraud creditors.

249. The transfers of the Old Wieland Entities' assets are void because they were intended to delay, hinder, or defraud Plaintiffs of a just and lawful debt.

250. Plaintiffs are entitled to have the John Wieland Homebuilding Enterprise, or the proceeds thereof, made subject to Plaintiffs' claims, or be awarded judgment thereon.

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WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

a) Enter judgment in favor of the Plaintiffs and against all Defendants, jointly and severally, in an amount to be determined for actual, incidental, consequential, special, and punitive damages;

b) Find that the Defendants have engaged in unfair trade practices and knowingly did so thereby entitling Plaintiffs to treble damages;

c) Award attorneys' fees and costs to the Plaintiffs; and

d) Award such other and further relief as the Court may deem just and proper.

HAYES LAW FIRM, LLC

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ATTORNEYS FOR PLAINTIFFS

November 11, 2020
Charleston, South Carolina

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
) CASE NO: 2017-CP-10-5246

Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50),

Plaintiffs,

vs;

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (41-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource - Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK

RP COMPANIES' AMENDED ANSWER TO PLAINTIFFS' THIRD AMENDED COMPLAINT WITH CROSS-CLAIMS AND THIRD-PARTY CLAIMS

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(U.S.A), Inc.; Wheelock Street Real Estate Fund II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Chad Larsen d/b/a Chad Larsen Co.; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Tracyinne Construction a/k/a T&C Construction, LLC; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Tracy McCuiston d/b/a Mastercraft Interior and Exterior; Universal Forest Products Eastern Division, Inc. a/k/a UFP Eastern Division, Inc.; Gonzalo Guerrero; A-Marc, Inc.; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Mark A. McFarland d/b/a In the Wind, Inc.; Harbor Master, Inc.; Chad Hood; Kinco Ltd. a/k/a Kinco, Inc.; Atrium Companies, Inc. d/b/a Atrium Windows and Doors, Inc. a/k/a HR Windows; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall

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Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J & R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction LLC. Defendants.	)
Builders FirstSource-Southeast Group, LLC, Third-Party Plaintiff, v. AC Construction, Corp. Third-Party Defendant.	)
RP Falcon Properties, LLC (f.k.a. JW Homes, LLC); RP Falcon Land, LLC (f.k.a. JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a. Wieland Realty, LLC); and Residential Partners, LLC, Third-Party Plaintiffs, v. COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC, Third-Party Defendants.	)

COMES NOW Defendants RP Falcon Properties, LLC (formerly known as JW Homes,

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LLC); RP Falcon Land, LLC (formerly known as JW Land Investment, LLC); RP Falcon Realty, LLC (formerly known as Wieland Realty, LLC); Residential Partners, LLC; and WS JWH, LLC (hereinafter "RP Companies"), by and through the undersigned counsel, amends its answer to the Third Amended Complaint filed by Plaintiffs Gary Keisler, Individually and as Class Representative, John Does (1-50) and Jane Does (1-50) ("Plaintiffs") to correct the caption of the Answer to correctly reflect Cross-Claims as opposed to Counter-Claims. No other changes or corrections have been made to the body of the Answer.

RP Companies' responses are made without waiving, and expressly reserving, all rights RP Companies have to file dispositive motions addressed to some or all of the claims asserted in the Amended Complaint. Except as expressly admitted herein, each and every allegation in the Amended Complaint is denied. With respect to the numbered paragraphs of the Amended Complaint, RP Companies respond as follows:

1. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 1, including the allegations in subsections (a)-(e), and therefore deny the same.

2. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 2 and therefore deny the same.

3. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 3 and therefore deny the same.

4. In response to Paragraph 4, RP Companies admit that the property is a section of Hamlin Plantation, located in Mount Pleasant, South Carolina. RP Companies otherwise deny the allegations in Paragraph 4.

5. To the extent that the allegations in the first sentence of Paragraph 5 are directed at other parties, no response is required. The second sentence of Paragraph 5 is directed at other

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parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in the second sentence of Paragraph 5 and therefore deny the same.

6. To the extent that the allegations in the first sentence of Paragraph 6 are directed at RP Companies, RP Companies deny the allegations in the first sentence of Paragraph 6. To the extent that the allegations in the first sentence of Paragraph 6 are directed at other parties, no response is required. The second sentence of Paragraph 6 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in the second sentence of Paragraph 6 and therefore deny the same.

7. RP Companies deny the allegations in Paragraph 7.

8. RP Companies deny the allegations in Paragraph 8.

9. RP Companies deny the allegations in Paragraph 9.

10. Paragraph 10 contains conclusions of law, and thus no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 10.

11. RP Companies admit, upon information and belief, the allegations in the first sentence of Paragraph 11. RP Companies deny the allegations in the second sentence of Paragraph 11.

12. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 12, including the allegations in subsections (a)-(f), and therefore deny the same.

13. Paragraph 13 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 13 and therefore deny the same.

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14. Paragraph 14 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 14 and therefore deny the same.

15. Paragraph 15 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 15 and therefore deny the same.

16. Paragraph 16 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 16 and therefore deny the same.

17. Paragraph 17 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 17 and therefore deny the same.

18. Paragraph 18 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 18 and therefore deny the same.

19. Paragraph 19 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 19 and therefore deny the same.

20. Paragraph 20 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 20 and therefore deny the same.

21. In response to Paragraph 21, RP Companies admit that RP Falcon Properties, LLC was formerly known as JW Homes, LLC and is organized and existing under the laws of the State

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of Delaware. RP Companies otherwise deny the allegations in Paragraph 21.

22. In response to Paragraph 22, RP Companies admit that Residential Partners, LLC is organized and existing under the laws of the State of Delaware. RP Companies deny the remaining allegations in Paragraph 22.

23. Paragraph 23 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 23 and therefore deny the same.

24. In response to Paragraph 24, RP Companies that WS JWH, LLC is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 24.

25. Paragraph 25 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 25 and therefore deny the same.

26. Paragraph 26 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 26 and therefore deny the same.

27. Paragraph 27 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 27 and therefore deny the same.

28. In response to Paragraph 28, RP Companies admit that RP Falcon Land, LLC was formerly known as JW Land Investment, LLC and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 28.

29. Paragraph 29 is directed at another party, and thus no response is required. To the

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extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 29 and therefore deny the same.

30. Paragraph 30 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 30 and therefore deny the same.

31. Paragraph 31 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 31 and therefore deny the same.

32. Paragraph 32 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 32 and therefore deny the same.

33. Paragraph 33 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 33 and therefore deny the same.

34. Paragraph 34 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 34 and therefore deny the same.

35. RP Companies admit the allegations in Paragraph 35.

36. Paragraph 36 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 36 and therefore deny the same

37. In response to Paragraph 37, RP Companies admit that RP Falcon Land, LLC was formerly known as JW Land Investment LLC and is organized and existing under the laws of the

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State of Delaware. RP Companies otherwise deny the allegations in Paragraph 37.

38. RP Companies deny the allegations in Paragraph 38.

39. In response to Paragraph 39, RP Companies admit that RP Falcon Realty, LLC was formerly known as Wieland Realty, LLC and is organized and existing under the laws of the State of Delaware. RP Companies otherwise deny the allegations in Paragraph 39.

40. Paragraph 40 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies admit or deny the allegations in Paragraph 40 and therefore deny the same.

41. Paragraph 41 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 41 and therefore deny the same.

42. Paragraph 42 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 42 and therefore deny the same.

43. RP Companies deny the allegations in Paragraph 43, including subsections (a)-(f) of Paragraph 43.

44. Paragraph 44 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 44 and therefore deny the same.

45. Paragraph 45 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 45 and therefore deny the same.

46. Paragraph 46 is directed at other parties, and thus no response is required. To the

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extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 46 and therefore deny the same.

47. Paragraph 47 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 47 and therefore deny the same.

48. Paragraph 48 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 48 and therefore deny the same.

49. Paragraph 49 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 49 and therefore deny the same.

50. Paragraph 50 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 50 and therefore deny the same.

51. In response to Paragraph 51, RP Companies state that Robert Parker was involved in the negotiation of the 2012 sale of assets of John Wieland Homes and Neighborhoods of the Carolinas, Inc. and John Wieland Homes and Neighborhoods, Inc. to Residential Partners, LLC. RP Companies otherwise deny the allegations in Paragraph 51.

52. Paragraph 52 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 52 and therefore deny the same.

53. Paragraph 53 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 53 and therefore deny the same.

54. Paragraph 54 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 54 and therefore deny the same.

55. Paragraph 55 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 55 and therefore deny the same.

56. Paragraph 56 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 56 and therefore deny the same.

57. Paragraph 57 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 57 and therefore deny the same.

58. Paragraph 58 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 58 and therefore deny the same.

59. Paragraph 59 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 59 and therefore deny the same.

60. Paragraph 60 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 60 and therefore deny the same.

61. Paragraph 61 is directed at another party, and thus no response is required. To the

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extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 61 and therefore deny the same.

62. Paragraph 62 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 62 and therefore deny the same.

63. Paragraph 63 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 63 and therefore deny the same.

64. Paragraph 64 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 64 and therefore deny the same.

65. Paragraph 65 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 65 and therefore deny the same.

66. Paragraph 66 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 66 and therefore deny the same.

67. Paragraph 67 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 67 and therefore deny the same.

68. Paragraph 68 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 68 and therefore deny the same.

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69. Paragraph 69 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 69 and therefore deny the same.

70. Paragraph 70 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 70 and therefore deny the same.

71. Paragraph 71 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 71 and therefore deny the same.

72. Paragraph 72 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 72 and therefore deny the same.

73. Paragraph 73 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 73 and therefore deny the same.

74. Paragraph 74 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 74 and therefore deny the same.

75. Paragraph 75 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 75 and therefore deny the same.

76. Paragraph 76 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 76 and therefore deny the same.

77. Paragraph 77 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 77 and therefore deny the same.

78. Paragraph 78 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 78 and therefore deny the same.

79. Paragraph 79 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 79 and therefore deny the same.

80. Paragraph 80 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 80 and therefore deny the same.

81. Paragraph 81 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 81 and therefore deny the same.

82. Paragraph 82 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 82 and therefore deny the same.

83. Paragraph 83 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 83 and therefore deny the same.

84. Paragraph 84 is directed at another party, and thus no response is required. To the

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extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 84 and therefore deny the same.

85. Paragraph 85 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 85 and therefore deny the same.

86. Paragraph 86 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 86 and therefore deny the same.

87. Paragraph 87 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 87 and therefore deny the same.

88. Paragraph 88 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 88 and therefore deny the same.

89. Paragraph 89 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 89 and therefore deny the same.

90. Paragraph 90 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 90 and therefore deny the same.

91. Paragraph 91 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 91 and therefore deny the same.

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92. Paragraph 92 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 92 and therefore deny the same.

93. Paragraph 93 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 93 and therefore deny the same.

94. Paragraph 94 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 94 and therefore deny the same.

95. RP Companies deny the allegations in Paragraph 95.

96. RP Companies deny the allegations in Paragraph 96.

97. RP Companies deny the allegations in Paragraph 97.

98. RP Companies deny the allegations in Paragraph 98.

99. RP Companies deny the allegations in Paragraph 99.

100. RP Companies deny the allegations in Paragraph 100.

101. RP Companies deny the allegations in Paragraph 101.

102. RP Companies deny the allegations in Paragraph 102.

103. RP Companies deny the allegations in Paragraph 103.

104. RP Companies deny the allegations in Paragraph 104.

105. RP Companies deny the allegations in Paragraph 105.

106. Paragraph 106 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 106 and therefore deny the same.

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107. RP Companies deny the allegations in Paragraph 107.

108. Paragraph 108 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 108.

109. RP Companies deny the allegations in Paragraph 109.

110. RP Companies deny the allegations in Paragraph 110.

111. RP Companies deny the allegations in Paragraph 111.

112. Paragraph 112 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 112 and therefore deny the same.

113. Paragraph 113 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 113 and therefore deny the same.

114. Paragraph 114 is directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 114 and therefore deny the same.

115. In response to Paragraph 115, RP Companies admit that Residential Partners, LLC and JW Homes, LLC were formed in the Fall of 2012. RP Companies otherwise deny the allegations in Paragraph 115.

116. Paragraph 116 is directed at another party, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 116 and therefore deny the same.

117. Paragraph 117 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the

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allegations in Paragraph 117 and therefore deny the same.

118. Paragraph 118 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 118 and therefore deny the same.

119. Paragraph 119 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 119 and therefore deny the same

120. RP Companies admit the allegations in Paragraph 120.

121. RP Companies deny the allegations in Paragraph 121.

122. In response to Paragraph 122, RP Companies state that Robert Parker was involved in the negotiation of the 2012 sale of assets of John Wieland Homes and Neighborhoods of the Carolinas, Inc. and John Wieland Homes and Neighborhoods, Inc. to Residential Partners, LLC. RP Companies otherwise deny the allegations in Paragraph 122.

123. RP Companies deny the allegations in Paragraph 123.

124. RP Companies deny the allegations in Paragraph 124.

125. RP Companies deny the allegations in Paragraph 125.

126. RP Companies deny the allegations in Paragraph 126.

127. RP Companies deny the allegations in Paragraph 127

128. RP Companies deny the allegations in Paragraph 128.

129. RP Companies deny the allegations in Paragraph 129.

130. RP Companies deny the allegations in Paragraph 130.

131. RP Companies deny the allegations in Paragraph 131.

132. RP Companies deny the allegations in the first sentence of Paragraph 132. In

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response to the second sentence of Paragraph 132, RP Companies state the website of JW Homes, LLC speaks for itself and denies any mischaracterization of the contents of that website.

133. RP Companies deny the allegations in Paragraph 133, including the allegations in subsections (a)-(l).

134. RP Companies deny the allegations in Paragraph 134.

135. RP Companies deny the allegations in Paragraph 135.

136. Paragraph 136 directed at other parties, and thus no response is required. To the extent a response is necessary, RP Companies lack sufficient information to admit or deny the allegations in Paragraph 136 and therefore deny the same.

137. RP Companies deny the allegations in Paragraph 137.

138. RP Companies deny the allegations in Paragraph 138.

139. RP Companies deny the allegations in Paragraph 139.

140. RP Companies deny the allegations in Paragraph 140.

141. RP Companies deny the allegations in Paragraph 141.

142. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 142 and therefore deny the same.

143. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 143 and therefore deny the same.

144. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 144 and therefore deny the same.

145. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 145 and therefore deny the same.

146. In response to Paragraph 146, RP Companies repeat, re-allege, and incorporate by

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reference the preceding paragraphs as if fully set forth herein verbatim.

147. In response to the first sentence of Paragraph 147, RP Companies lack sufficient information to admit or deny the allegations related to the information provided to Plaintiffs or their beliefs and therefore deny the same. RP Companies deny the remaining allegations in the first sentence of Paragraph 147. RP Companies also deny the allegations in the second sentence of Paragraph 147.

148. RP Companies deny the allegations in Paragraph 148.

149. RP Companies deny the allegations in Paragraph 149.

150. RP Companies deny the allegations in Paragraph 150.

151. RP Companies deny the allegations in Paragraph 151.

152. RP Companies deny the allegations in Paragraph 152.

153. RP Companies deny the allegations in Paragraph 153.

154. RP Companies deny the allegations in Paragraph 154.

155. RP Companies deny the allegations in Paragraph 155.

156. RP Companies deny the allegations in Paragraph 156.

157. RP Companies deny the allegations in Paragraph 157.

158. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 158 and therefore deny the same.

159. RP Companies lack sufficient information to admit or deny the allegations in Paragraph 159 and therefore deny the same.

160. RP Companies deny the allegations in Paragraph 160.

161. RP Companies deny the allegations in Paragraph 161.

162. RP Companies deny the allegations in Paragraph 162.

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163. RP Companies deny the allegations in Paragraph 163.

164. RP Companies deny the allegations in Paragraph 164.

165. RP Companies deny the allegations in Paragraph 165.

166. RP Companies deny the allegations in Paragraph 166.

167. RP Companies deny the allegations in Paragraph 167.

168. RP Companies deny the allegations in Paragraph 168.

169. RP Companies deny the allegations in Paragraph 169.

170. In response to Paragraph 170, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

171. Paragraph 171 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 171.

172. RP Companies deny the allegations in Paragraph 172.

173. RP Companies deny the allegations in Paragraph 173.

174. RP Companies deny the allegations in Paragraph 174.

175. RP Companies deny the allegations in Paragraph 175.

176. RP Companies deny the allegations in Paragraph 176.

177. RP Companies deny the allegations in Paragraph 177.

178. RP Companies deny the allegations in Paragraph 178.

179. In response to Paragraph 179, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

180. RP Companies deny the allegations in Paragraph 180.

181. RP Companies deny the allegations in Paragraph 181.

182. RP Companies deny the allegations in Paragraph 182.

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183. In response to Paragraph 183, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

184. RP Companies deny the allegations in Paragraph 184.

185. RP Companies deny the allegations in Paragraph 185.

186. In response to Paragraph 186, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

187. RP Companies deny the allegations in Paragraph 187.

188. RP Companies deny the allegations in Paragraph 188.

189. RP Companies deny the allegations in Paragraph 189.

190. RP Companies deny the allegations in Paragraph 190.

191. RP Companies deny the allegations in Paragraph 191.

192. In response to Paragraph 192, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

193. RP Companies deny the allegations in Paragraph 193.

194. RP Companies deny the allegations in Paragraph 194.

195. RP Companies deny the allegations in Paragraph 195.

196. RP Companies deny the allegations in Paragraph 196.

197. In response to Paragraph 197, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

198. RP Companies deny the allegations in Paragraph 198, including subsections (a)-(v) of Paragraph 198.

199. RP Companies deny the allegations in Paragraph 199.

200. In response to Paragraph 200, RP Companies repeat, re-allege, and incorporate by

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reference the preceding paragraphs as if fully set forth herein verbatim.

201. RP Companies deny the allegations in Paragraph 201.

202. RP Companies deny the allegations in Paragraph 202.

203. RP Companies deny the allegations in Paragraph 203.

204. RP Companies deny the allegations in Paragraph 204.

205. In response to Paragraph 205, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

206. RP Companies deny the allegations in Paragraph 206.

207. RP Companies deny the allegations in Paragraph 207.

208. RP Companies deny the allegations in Paragraph 208.

209. In response to Paragraph 209, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

210. RP Companies deny the allegations in Paragraph 210.

211. RP Companies deny the allegations in Paragraph 211.

212. RP Companies deny the allegations in Paragraph 212.

213. RP Companies deny the allegations in Paragraph 213.

214. RP Companies deny the allegations in Paragraph 214.

215. RP Companies deny the allegations in Paragraph 215.

216. RP Companies deny the allegations in Paragraph 216.

217. RP Companies deny the allegations in Paragraph 217.

218. RP Companies deny the allegations in Paragraph 218.

219. RP Companies deny the allegations in Paragraph 219.

220. RP Companies deny the allegations in Paragraph 220.

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221. RP Companies deny the allegations in Paragraph 221.

222. RP Companies deny the allegations in Paragraph 222.

223. In response to Paragraph 223, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

224. Paragraph 224 contains conclusions of law to which no response is required. To the extent a response is necessary, RP Companies deny the allegations in Paragraph 224.

225. RP Companies deny the allegations in Paragraph 225.

226. RP Companies deny the allegations in Paragraph 226.

227. RP Companies deny the allegations in Paragraph 227.

228. RP Companies deny the allegations in Paragraph 228.

229. In response to Paragraph 229, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

230. RP Companies deny the allegations in Paragraph 230.

231. In response to Paragraph 231, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

232. RP Companies deny the allegations in Paragraph 232.

233. RP Companies deny the allegations in Paragraph 233.

234. RP Companies deny the allegations in Paragraph 234.

235. RP Companies deny the allegations in Paragraph 235.

236. RP Companies deny the allegations in Paragraph 236.

237. RP Companies deny the allegations in Paragraph 237.

238. In response to Paragraph 238, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

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239. RP Companies deny the allegations in Paragraph 239.

240. RP Companies deny the allegations in Paragraph 240.

241. RP Companies deny the allegations in Paragraph 241.

242. RP Companies deny the allegations in Paragraph 242.

243. In response to Paragraph 243, RP Companies repeat, re-allege, and incorporate by reference the preceding paragraphs as if fully set forth herein verbatim.

244. RP Companies deny the allegations in Paragraph 244.

245. RP Companies deny the allegations in Paragraph 245.

246. RP Companies deny the allegations in Paragraph 246.

247. RP Companies deny the allegations in Paragraph 247.

248. RP Companies deny the allegations in Paragraph 248.

249. RP Companies deny the allegations in Paragraph 249.

250. RP Companies deny the allegations in Paragraph 250 and the allegations in the following "WHEREFORE" paragraph, including subsections (a)-(d) of that paragraph.

ADDITIONAL DEFENSES

First Additional Defense

Plaintiffs' Third Amended Complaint should be dismissed under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state facts sufficient to constitute a cause of action and failure to satisfy adequate pleading requirements for each Defendant.

Second Additional Defense

Plaintiffs' Third Amended Complaint should be dismissed for lack of personal jurisdiction under Rule 12(b)(2) of the South Carolina Rules of Civil Procedure.

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Third Additional Defense

Plaintiffs' "causes of action" are not causes of action, but rather alleged remedies, equitable in nature, and should be determined by this Court alone and placed on a non-jury roster.

Fourth Additional Defense

Plaintiffs' action as a whole, and each cause of action individually, is barred by the applicable statutes of limitations and/or repose under South Carolina, Delaware, and/or Georgia law and/or federal law, as well as other state and federal statutes of limitations and/or repose.

Fifth Additional Defense

Plaintiffs have failed to plead their claims with the requisite specificity under Rules 8(a) and/or 9(b) of the South Carolina Rules of Civil Procedure, South Carolina, Georgia and/or Delaware law.

Sixth Additional Defense

Plaintiffs' cause of action for violation of the South Carolina Unfair Trade Practices Act ("SCUTPA"), S.C. Code Ann. §§ 39-5-10 *et seq.*, should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state a claim upon which relief can be granted because the SCUTPA plainly states that such a claim may not be maintained in a representative capacity. S.C. Code Ann. § 39-5-140(a).

Seventh Additional Defense

Plaintiffs' claims are barred or limited because they knew, should have known, or had reason to know the facts and circumstances on which their claim(s) are based. As a consequence, they are subject to the defenses of waiver, estoppel, laches, acquiescence, and similar concepts; their claims are barred by notice and knowledge; and their requests for relief are inequitable and so barred or limited by equitable doctrines, including unclean hands.

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Eighth Additional Defense

Plaintiffs' claims are barred by their own contributory and/or comparative negligence and/or recklessness for their failure to properly maintain the subject properties and to mitigate any damages to those properties.

Ninth Additional Defense

Plaintiffs failed to mitigate their damages, if any, regardless of their contributory and/or comparative negligence and/or recklessness.

Tenth Additional Defense

Plaintiffs' claims are barred because their damages are the result of acts and omissions of other entities, over which RP Companies have or had no control.

Eleventh Additional Defense

Plaintiffs' claims are barred because they failed to make a claim within any applicable warranty period.

Twelfth Additional Defense

RP Companies made no warranties of any kind, express or implied, or any representations of any nature whatsoever to Plaintiffs. If such warranties were made, whether express or implied, which RP Companies specifically denies, then Plaintiffs' claims are barred because (a) they failed to give notice of any breach thereof, and/or (b) Plaintiffs did not rely on any warranties allegedly made by RP Companies.

Thirteenth Additional Defense

Plaintiffs' claim for punitive damages is barred because such an award would violate RP Companies' due process, equal protection, and other rights under the United States Constitution.

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Fourteenth Additional Defense

Plaintiffs' claims are barred by the doctrine of corporate immunity and/or business judgment rule.

Fifteenth Additional Defense

Plaintiffs' claims are barred or should be dismissed by the doctrine of spoliation of evidence, as the Plaintiffs spoiled evidence and repaired alleged deficiencies without notice to RP Companies and without giving Wheelock Fund opportunity to observe the alleged deficiencies.

Sixteenth Additional Defense

Plaintiffs' claims are barred and/or should be stayed or dismissed because Plaintiffs failed to comply with the South Carolina Notice and Opportunity to Cure Non-Residential Construction Defects Act, South Carolina Code § 40-11-510, *et. seq*.

Seventeenth Additional Defense

Plaintiffs' claims are barred and/or should be stayed or dismissed by virtue of the Plaintiffs' failure to comply with the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, South Carolina Code § 40-59-810-860 (1976 as amended).

Eighteenth Additional Defense

Plaintiffs' claims are barred by the economic loss rule.

Nineteenth Additional Defense

Plaintiffs' and potential class action Plaintiffs' claims are barred to the extent that they are improperly joined as one cause of action.

Twentieth Additional Defense

Plaintiffs' claims are barred because they have been settled, released, compromised, and/or waived.

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Twenty-First Additional Defense

Plaintiffs lack standing to assert the claims in their Third Amended Complaint.

Twenty-Second Additional Defense

Plaintiffs' claims are barred because there is no privity between Plaintiffs and RP Companies, and otherwise no fiduciary or special relationship between Plaintiffs and RP Companies.

Twenty-Third Additional Defense

Plaintiffs' claims are barred because they assumed the risk and/or accepted all portions of any alleged damages.

Twenty-Fourth Additional Defense

Plaintiffs' claims should be barred or, in the alternative, stayed pending a resolution of this dispute by arbitration to the extent such arbitration is required by the contract documents to which Plaintiffs are a party.

Twenty-Fifth Additional Defense

RP Companies are entitled to a right of setoff based on the settlement contributions of any other party to this action.

Twenty-Sixth Additional Defense

RP Companies reserve and do not waive the right to raise claims against any party and/or third parties, including, without limitation, those for indemnity and/or contribution.

Twenty-Seventh Additional Defense

Plaintiffs' Amended Complaint should be dismissed for insufficiency of process under Rule 12(b)(4) of South Carolina Rules of Civil Procedure and Rule 12(b)(5) for insufficiency of service of process.

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Twenty-Eighth Additional Defense

RP Companies plead the defenses and statutory caps set forth in S.C. Code Ann. § 15-32-520, *et. seq.*, which are applicable to claims for punitive and exemplary damages, including, but not limited to, limitation of recovery and bifurcation of punitive damages claims.

Twenty-Ninth Additional Defense

RP Companies incorporate all applicable defenses asserted by other Defendants that are not otherwise specifically set forth in this set of Additional Defenses.

RP Companies hereby give notice that they intend to rely upon such and further defenses as may become available or apparent during discovery proceedings in this case and hereby reserves its right to amend its Answer and assert such defenses.

Further Answering and By Way of Cross-Claims RP Companies Allege as Follows:

251. RP Companies repeat and reallege all the preceding paragraphs of this Amended Answer and Affirmative Defenses as if set forth verbatim herein.

252. Plaintiffs have sued RP Companies claiming damages caused by alleged deficient materials, design, engineering and/or construction services provided by Subcontractor Defendants on the Project.

253. RP Companies contracted with the following persons and entities (herein collectively referred to as "Subcontractor Defendants") for provisions of labor, materials, design, products, and/or services to used constructing the Project. Those persons and entities are as follows:

a. All American Roofing and Construction, LLC;

b. DBC Construction Services, LLC;

c. GR Painting, Inc.;

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d. Ivan Jose Paiz d/b/a Jose Construction;

e. JMC Construction, LLC;

f. Muhler Company, Inc.;

g. YKK (U.S.A.), Inc.;

h. Paul M. Vasquez;

i. AC Construction, Inc.;

j. Builders FirstSource – Southeast Group, LLC;

k. Neighborhood Management Associates, Inc.

l. Billie and Antonio Arias d/b/a Antonio Arias Framing Construction;

m. Tru-Don Contracting, Inc.;

n. Fine Builders, LLC;

o. Jose Alfredo Sandoval;

p. William B. Angel;

q. East Coast Wall Systems, Inc.;

r. Frankcisco and Andrea Dacosta, individually and d/b/a AAA Coastline, Inc.;

s. Jack R. Clark, individually and d/b/a Jack Clark Construction LLC;

t. Alex Welch;

u. Gonzalo Guerrero;

v. A-Marc, Inc.;

w. Emmanuel Kehagis d/b/a Creative Construction;

x. Anthony Kirksey;

y. Polly S. Clark d/b/a Glenn Clark Construction;

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z. Benjamin Mora a/k/a Benjamin L. Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC;

aa. Daniel L. Rogers d/b/a Dan Rogers Roofing, LLC;

bb. William C. Mulhern d/b/a Bill's Painting;

cc. Chad Hood;

dd. The Contractor Yard, Inc.;

ee. New Construction Drywall Hanger, LLC;

ff. DBC Construction Services, LLC;

gg. Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC;

hh. Juan Luis Sanchez a/k/a Sanchez Brothers Painting;

ii. Latitude Construction Services, LLC;

jj. Richard Ditullio a/k/a RDT Contracting, LLC

kk. Valencia Medina, individually and as an agent of JMC Construction, LLC a/k/a JMC Construction, Inc.;

ll. J & R Construction, LLC a/k/a JJ&R Construction, LLC;

mm. Cohen's Drywall Company, LLC; and

nn. Leor Construction LLC.

254. RP Companies have denied all of the substantive allegations against them that were made by Plaintiffs.

Further Answering and as a First Cross-Claim:
(Indemnity)

255. To the extent, if any, that RP Companies are held liable to Plaintiffs in this action, such liability would be a direct and proximate result of the wrongful acts, omission, negligence and/or representations of Subcontractor Defendants, which has damaged RP Companies as RP

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Companies have been subjected to liability, and have incurred consequential damages in having to expend attorneys' fees and costs in defending this action.

256. To the extent, if any, that the construction was defective or deficient in workmanship, installation, materials and/or were not merchantable or fit for their particular purposes, such defects and deficiencies would be the result of the breach of the express and implied contractual obligations and warranties that Subcontractor Defendants provided, damaging RP Companies as RP Companies have been subjected to liability, and have incurred consequential damages in having to expend attorney's fees and cots in defending this action.

257. RP Companies are entitled to full indemnification from Subcontractor Defendants for any liability RP Companies are found to have to Plaintiffs in this action, and RP Companies would be entitled to damages for Subcontractor Defendants' negligence as described above and for Subcontractor Defendants' breach of its implied and express warranties, entitling RP Companies to recover from Subcontractor Defendants their attorney's fees, costs and other expenses incurred in defending this action, and entitling RP Companies to recover from Subcontractor Defendants any sums for which they may be held liable to Plaintiffs.

258. The Project allegedly has sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

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Further Answering and as a Second Cross-Claim:
(Negligence)

259. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

260. The Subcontractor Defendants were negligent, careless and reckless in the construction, supervision, inspection and/or supplying of the work or materials outlined above and incorporated into the project.

261. As a direct and proximate result of such negligence, carelessness and recklessness, RP Companies have been damaged in the amount of any monies they are adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, plus the cost of investigating and defending this claim.

262. Upon information and belief, RP Companies are entitled to judgment for actual damages collectively or individually against the Subcontractor Defendants in the amount of any monies they are adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, as well as fees and costs incurred in the investigation, defense and settlement of this claim.

263. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

264. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continue to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor

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Defendants' negligence and for which the Subcontractor Defendants also are liable to RP Companies.

Further Answering and as a Third Cross-Claim:
(Breach of Warranty)

265. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

266. The Subcontractor Defendants expressly or impliedly warranted to RP Companies that all work performed by them would be performed in a careful, diligent and workmanlike manner, and that any materials and/or services designed, supplied or sold by them for use on the project would be merchantable and fit for their intended or specific purpose. Subcontractor Defendants breached their implied and/or express warranties of merchantability, workmanlike service, and/or fitness for a particular or intended purpose in the construction of the project.

267. As a result of these breaches of warranties, RP Companies have incurred damage in the amount of any money they are adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, plus the cost of investigating and defending this claim.

268. Upon information and belief, RP Companies are entitled to judgment against the Subcontractor Defendants in the amount of any monies they are adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, as well as costs and fees incurred in the investigation, defense and settlement of this claim.

269. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted

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in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

270. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continue to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' breach of warranty and for which the Subcontractor Defendants are also liable to RP Companies.

Further Answering and as a Fourth Cross-Claim:
(Breach of Contract)

271. RP Companies reallege the Paragraphs above as if repeated herein verbatim.

272. RP Companies entered into contracts with the Subcontractor Defendants. Subcontractor Defendants were to provide work and materials to the Project in question as described above.

273. The terms of the contracts required Subcontractor Defendants to provide construction goods and services for the Project that, among other things, would produce a quality building free from defects and otherwise in conformance of all contract documents, including all building codes and industry standards. The contract further required Subcontractor Defendants to supervise and direct its work, using the best skill and attention.

274. Subcontractor Defendants breached their contract by failing to provide appropriate construction goods and services to the Project, by failing to perform their work in a careful, diligent and workmanlike manner, by failing to provide goods and services that resulted in a quality building free from defects and otherwise in conformance with all contract documents, and failing to provide goods and services that were in conformity with all appropriate building codes and

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industry standards.

275. As a result of these breaches of contract, RP Companies have incurred damage in the amount of any money they have been adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, plus the costs of investigating and defending this claim.

Further Answering and as a Fifth Cross-Claim:
(Strict Liability/Products Liability)

276. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

277. The components manufactured, supplied, sold, and distributed by Defendant YKK (USA), Inc., were defective in their design and/or manufacture, and those co-defendants failed to warn RP Companies of the dangers and problems inherent with the components.

278. By virtue of the defects in the windows and the failure to warn by Defendant YKK (USA), Inc., the components used in the residences in question failed, causing consequential damages to the residences and causing damages to RP Companies in that RP Companies have, had (or will have) to expend monies to resolve the claims of the homeowners and to investigate and defend the claims of the homeowners, all to the damage of RP Companies as described herein.

279. The Project has sustained actual damage by exposure to the improper and negligent construction the Subcontractor Defendants. The Project has sustained property damage caused by continuous exposure to the faulty work of the Subcontractor Defendants that resulted in property damage and not merely negligent construction damaging only the work product of each of the separate Subcontractor Defendants. In addition, the alleged faulty workmanship, breaches, errors, omissions and wrongful acts of the Fourth-Party Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

280. Upon information and belief, RP Companies are entitled to judgment against Subcontractor Defendants in the amount of any monies they have been adjudged to owe Plaintiffs,

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or which they pay Plaintiffs in settlement of Plaintiffs' claims, as well as costs and fees incurred in the investigation, defense, and settlement of this claim.

281. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

282. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continues to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' breach of contract and for which the Subcontractor Defendants are also liable to RP Companies.

Further Answering and By Way Of A Third-Party Complaint RP Companies Allege:

283. RP Companies repeat and reallege all the preceding paragraphs of this Amended Answer, Affirmative Defenses, and Cross-Claims as if set forth verbatim herein.

284. Plaintiffs have sued RP Companies claiming damages caused by alleged deficient materials, design, engineering and/or construction services provided by Subcontractor Defendants on the Project.

285. RP Companies contracted with the following persons and entities (herein collectively referred to as "Subcontractor Defendants") for provisions of labor, materials, design,

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products, and/or services to used constructing the Project. Those persons and entities are as follows:

a. All Exteriors Construction, LLC;

b. Bury's Footers, LLC;

c. CY Construction, LLC a/k/a COY-CY Construction;

d. Evans Enterprises, Inc.;

e. IML Construction, LLC;

f. Marcus Built, LLC; and

g. 84 Lumber Company

286. RP Companies have denied all of the substantive allegations against them that were made by Plaintiffs.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Indemnity)

287. To the extent, if any, that RP Companies are held liable to Plaintiffs in this action, such liability would be a direct and proximate result of the wrongful acts, omission, negligence and/or representations of Subcontractor Defendants, which has damaged RP Companies as RP Companies have been subjected to liability, and have incurred consequential damages in having to expend attorneys' fees and costs in defending this action.

288. To the extent, if any, that the construction was defective or deficient in workmanship, installation, materials and/or were not merchantable or fit for their particular purposes, such defects and deficiencies would be the result of the breach of the express and implied contractual obligations and warranties that Subcontractor Defendants provided, damaging RP Companies as RP Companies have been subjected to liability, and have incurred consequential damages in having to expend attorney's fees and cots in defending this action.

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289. RP Companies are entitled to full indemnification from Subcontractor Defendants for any liability RP Companies are found to have to Plaintiffs in this action, and RP Companies would be entitled to damages for Subcontractor Defendants' negligence as described above and for Subcontractor Defendants' breach of its implied and express warranties, entitling RP Companies to recover from Subcontractor Defendants their attorney's fees, costs and other expenses incurred in defending this action, and entitling RP Companies to recover from Subcontractor Defendants any sums for which they may be held liable to Plaintiffs.

290. The Project allegedly has sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Negligence)

291. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

292. The Subcontractor Defendants were negligent, careless and reckless in the construction, supervision, inspection and/or supplying of the work or materials outlined above and incorporated into the project.

293. As a direct and proximate result of such negligence, carelessness and recklessness, RP Companies have been damaged in the amount of any monies they are adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, plus

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the cost of investigating and defending this claim.

294. Upon information and belief, RP Companies are entitled to judgment for actual damages collectively or individually against the Subcontractor Defendants in the amount of any monies they have been adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, as well as fees and costs incurred in the investigation, defense and settlement of this claim.

295. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

296. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continue to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' negligence and for which the Subcontractor Defendants also are liable to RP Companies.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Breach of Warranty)

297. RP Companies re-allege the Paragraphs above as if repeated herein verbatim.

298. The Subcontractor Defendants expressly or impliedly warranted to RP Companies that all work performed by them would be performed in a careful, diligent and workmanlike manner, and that any materials and/or services designed, supplied or sold by them for use on the

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project would be merchantable and fit for their intended or specific purpose. Subcontractor Defendants breached their implied and/or express warranties of merchantability, workmanlike service, and/or fitness for a particular or intended purpose in the construction of the project.

299. As a result of these breaches of warranties, RP Companies have incurred damages in the amount of any money they have been adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, plus the cost of investigating and defending this claim.

300. Upon information and belief, RP Companies are entitled to judgment against the Subcontractor Defendants in the amount of any monies they have been adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, as well as costs and fees incurred in the investigation, defense and settlement of this claim.

301. The Project has allegedly sustained actual property damage caused by continuous exposure to the improper and negligent construction and faulty work of the Subcontractor Defendants resulting in property damage which is not the work product of each of these Subcontractor Defendants. In addition, the alleged faulty construction, breaches, errors, omissions and wrongful acts of the Subcontractor Defendants were, and have resulted in, occurrences that were unintended, unforeseen, gratuitous and/or injurious events that caused property damage.

302. Further, RP Companies have been exposed to special damages recoverable at law in that their professional reputation has been harmed, and they have incurred and continue to incur costs reasonably necessary to defend their interests including fees and costs which are associated with their investigation of this matter which are the legal consequences of the Subcontractor Defendants' breach of warranty and for which the Subcontractor

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Defendants are also liable to RP Companies.

Further Answering and By Way Of A Third-Party Complaint, RP Companies Allege:
(Breach of Contract)

303. RP Companies reallege the Paragraphs above as if repeated herein verbatim.

304. RP Companies entered into contracts with the Subcontractor Defendants. Subcontractor Defendants were to provide work and materials to the Project in question as described above.

305. The terms of the contracts required Subcontractor Defendants to provide construction goods and services for the Project that, among other things, would produce a quality building free from defects and otherwise in conformance of all contract documents, including all building codes and industry standards. The contract further required Subcontractor Defendants to supervise and direct its work, using the best skill and attention.

306. Subcontractor Defendants breached their contract by failing to provide appropriate construction goods and services to the Project, by failing to perform their work in a careful, diligent and workmanlike manner, by failing to provide goods and services that resulted in a quality building free from defects and otherwise in conformance with all contract documents, and failing to provide goods and services that were in conformity with all appropriate building codes and industry standards.

307. As a result of these breaches of contract, RP Companies have incurred damage in the amount of any money they have been adjudged to owe Plaintiffs, or which they pay Plaintiffs in settlement of Plaintiffs' claims, plus the costs of investigating and defending this claim.

WHEREFORE, having fully answered the Plaintiffs' Third Amended Complaint herein, RP Companies pray for relief and request that the Court dismiss Plaintiffs' Third Amended

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Complaint with prejudice, enter judgment in RP Companies' favor on all counts, and award such costs, expenses, and fees to RP Companies as this Court deems equitable, just, and proper.

/s Blake A. McKie
Brian C. Duffy
Blake A. McKie
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Attorneys for RP Companies

December 3, 2020
Charleston, South Carolina

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	NINTH JUDICIAL CIRCUIT
Gary Keisler, Individually and as Class Representative, John Does (1-50) and jane Does (1-50),)	Civil Action No.: 2017-CP-10-5246
Plaintiff,)	ALL EXTERIORS CONSTRUCTION, LLC'S ANSWER TO THE THIRD-PARTY CLAIMS ASSERTED BY THE RP COMPANIES DEFENDANTS RESPONDING TO PLAINTIFFS' THIRD AMENDED COMPLAINT
vs.)	
John Wieland Homes and Neighborhoods of the Carolinas, Inc. as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc.; John Wieland Homes of Charleston, Inc.; John Wieland Homes, Inc. n/k/a John Wieland Homes and Neighborhoods of South Carolina; Builder Support Services of the Carolinas, Inc.; Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.; Wheelock Street Real Estate Fund, LP; Wheelock Street Investment Management, LLC; Wheelock Street Investment Management I, LLC; Wheelock Street Investment Management II, LLC; Wheelock Street Investment Management III, LLC; RP Falcon Properties, LLC; Residential Partners, LLC; Middlesex Holdings, LLC; WS JWH, LLC; JWC Phoenix, LLC; Bridgemill Land, LLC; Annisquam Development, LLC; JW Land Investment, LLC; JWC Guilford, LLC; OOTB, LLC; JW Realty Associates, Inc. a/k/a Wieland Realty Associates, Inc.; John Wieland, individually; Sue Wieland; Lindsey Parker; Robert Parker; Jack Wieland; Jorge Medina; Jorge Medina a/k/a JMC Construction, Inc. a/k/a JMC Construction, LLC; John Does (20-50); and Jane Does (45-50); AC Construction, Inc.; Scott Parker, individually; Builders FirstSource Southeast Group, LLC; Muhler LLC a/k/a The Muhler Company, Inc.; YKK) (U.S.A), Inc.; Wheelock Street Real Estate Fund I, LP; Wheelock Street Real Estate Fund)	(Jury trial demanded)

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II, LP; Wheelock Street Real Estate Fund V, LP; WSREF, NRT, LLC; JW Homes, LLC; JWH RPIV, LLC; RP Falcon Land, LLC; Wieland Realty, LLC; RP Falcon Realty, LLC; Residential Partners II, LLC; Residential Partners III, LLC; Residential Partners IV, LLC; Paul M. Vasquez; Neighborhood Management Associates, Inc.; Billie and Antonio Arias d/b/a Antonio Arias Framing Construction; Tru-Don Contracting, Inc.; Fine Builders, LLC; Jose Alfredo Sandoval; Ivan Jose Paiz d/b/a Jose Construction; William B. Angel; East Coast Wall Systems, Inc.; Frankcisco and Andrea DaCosta d/b/a AAA Coastline, Inc.; Jack R. Clark d/b/a Jack Clark Construction, LLC; Alex Welch; Gonzalo Guerrero; A-Marc, Inc..; Emmanuel Kehagis d/b/a Creative Construction; Anthony Kirksey; Polly S. Clark d/b/a Glenn Clark Construction; Benjamin Mora a/k/a Benjamin L. Mora d/b/a Mora Construction f/k/a Mora's Construction and Benjamin Mora Construction, LLC n/k/a Mora Construction, LLC; Daniel L. Rogers d/b/a Rogers Roofing Co., Inc. n/k/a Dan Rogers Roofing, LLC; William C. Mulhern d/b/a Bill's Painting; Chad Hood; The Contractor Yard, Inc.; New Construction Drywall Hanger, LLC f/k/a New Construction Drywall Hanger, Inc.; Doug Pilcher; and Michael Cassidy; DBC Construction Services, LLC; Gerardo Rosette Sanchez a/k/a GR Painting, LLC; Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC; Juan Luis Sanchez a/k/a Sanchez Brothers Painting; Latitude Construction Services, LLC; Richard Ditullio a/k/a RDT Contracting, LLC; Valencia Medina; J&R Construction, LLC a/k/a JJ&R Construction, LLC; Cohen's Drywall Company, LLC; All American Roofing and Construction, LLC; and Leor Construction, LLC,

Defendants.

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Builders FirstSource-Southeast Group, LLC, Third-Party Plaintiff, vs. AC Construction, Corp. Third-Party Defendant.	)
RP Falcon Properties, LLC (f.k.a JW Homes, LLC): RP Falcon Land, LLC (f.k.a JW Land Investment, LLC); RP Falcon Realty, LLC (f.k.a Wieland Realty, LLC); and Residential Partners, LLC, Third-Party Plaintiffs, vs. COY-CY Construction; Evans Enterprises; IML Construction, LLC; and Marcus Built, LLC, Third-Party Defendants.	)

Comes now Defendant All Exteriors Construction, LLC (hereinafter "All Exteriors") answering the third-party claims asserted by Defendants RP Falcon Properties, LLC (formerly known as JW Homes, LLC); RP Falcon Land, LLC (formerly known as JW Land Investment, LLC); RP Falcon Realty, LLC (formerly known as Wieland Realty, LLC); and Residential Partners, LLC; and WS JWH, LLC (hereinafter collectively the "RP Companies") in the "RP Companies' Amended Answer to Plaintiffs' Third Amended Complaint with Cross-Claims and Third-Party Claims" that was filed December 3, 2020,[1] and where All Exteriors is not referenced

[1] All Exteriors is answering the RP Companies' Amended Answer rather than its initial answer to Plaintiffs' Third Amended Complaint that was filed on November 24, 2020.

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in the caption but is referenced in the body of the pleading, by denying each and every allegation not hereinafter admitted, and further responding as follows:

FOR A FIRST DEFENSE AND BY WAY OF ANSWER

1. Paragraphs numbered 1 through 250 and labeled as the "First Additional Defense" through the "Twenty-Ninth Additional Defense" are the RP Companies' answer and affirmative defenses to Plaintiffs' Third Amended Complaint and do not require a response from All Exteriors; however, to the extent a response is required or to the extent these paragraphs can be construed to impart liability on All Exteriors, then these allegations are denied and All Exteriors demands strict proof thereof.

2. In response to Paragraph 251, All Exteriors realleges its response in the paragraph above as if restated here verbatim.

3. In response to Paragraph 252, All Exteriors admits only that Plaintiff has alleged certain claims in its Third Amended Complaint against the RP Companies Defendants as well as against other defendants, but All Exteriors denies all liability that can be construed against it and demands strict proof thereof.

4. Paragraphs 253 and 254, including all subparts, do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

First Cross-Claim
(Indemnity)

5. Paragraphs 255 through 258 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are

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denied.

Second Cross-Claim
(Negligence)

6. In response to Paragraph 259, All Exteriors realleges Paragraphs 1 through 5 above as if restated herein verbatim.

7. Paragraphs 260 through 264 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

Third Cross-Claim
(Breach of Warranty)

8. In response to Paragraph 265, All Exteriors realleges its answers in Paragraphs 1 through 7 above as if restated herein verbatim.

9. Paragraphs 266 through 270 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

Fourth Cross-Claim
(Breach of Contract)

10. In response to Paragraph 271, All Exteriors realleges its answers in Paragraphs 1 through 9 above as if restated herein verbatim.

11. Paragraphs 272 through 275 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

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Fifth Cross-Claim
(Strict Liability/Products Liability)

12. In response to Paragraph 276, All Exteriors realleges its answers in Paragraphs 1 through 11 above as if restated herein verbatim.

13. Paragraphs 277 through 282 do not allege claims against All Exterior and require no response from this defendant; however, to the extent a response is required or to the extent these paragraphs could be construed to impart liability on All Exteriors, then these allegations are denied.

Third-Party Allegations

14. In response to Paragraph 283, All Exteriors realleges its answers in Paragraphs 1 through 13 above as if restated here verbatim.

15. In response to Paragraph 284, All Exteriors admits only that Plaintiff has alleged certain claims in its Third Amended Complaint against the RP Companies Defendants as well as against other defendants, but All Exteriors denies all liability that can be construed against it and demands strict proof thereof.

16. In response to Paragraph 285, subpart "a," All Exteriors states only that, upon information and belief, it performed work on the One Hamlin Place buildings numbered 6, 7, 8, 9, 10, 11, and part of 5, but performed no work on the One Hamlin Place building numbered 1, 2, 3, and 4. Upon information and belief, the John Wieland Homes and Neighborhoods of the Carolinas, Inc., etc. entities built the One Hamlin Place buildings numbered 1, 2, 3, 4, and part of 5. All Exteriors lacks sufficient knowledge or information to admit or deny which of the RP Companies, if any, built the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11 and All Exteriors lacks sufficient knowledge or information to respond to the allegations against other defendants and, therefore, All Exteriors denies the remaining allegations contained in Paragraph 285.

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17. In response to paragraph 286, upon information and belief, All Exteriors admits that the RP Companies have denied the allegations alleged against them by the Plaintiffs, but All Exteriors denies all liability that could be construed against it.

First Third-Party Claim
(Indemnity)

18. All Exteriors denies the allegations contained in Paragraphs 287 through 290 and demands strict proof thereof.

Second Third-Party Claim
(Negligence)

19. In response to Paragraph 291, All Exteriors realleges its answers in Paragraphs 1 through 18 above as if restated here verbatim.

20. All Exteriors denies the allegations contained in Paragraphs 292 through 296 and demands strict proof thereof.

Third Third-Party Claim
(Breach of Warranty)

21. In response to Paragraph 297, All exteriors realleges its answers in Paragraphs 1 through 20 above as if restated here verbatim.

22. In response to Paragraph 298, All Exteriors admits only that whatever work it performed on the One Hamlin Place buildings numbered 6, 7, 8, 9, 10, 11, and part of 5 was performed in a workmanlike manner and in accordance with the applicable building code, plans, specifications, and industry standards and All Exteriors denies all allegations inconsistent with this response. Further responding, All Exteriors denies it provided any express warranty to the RP Companies.

23. All Exteriors denies the allegations contained in Paragraphs 299 through 302 and demands strict proof thereof.

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Fourth Third-Party Claim
(Breach of Contract)

24. In response to Paragraph 303, All Exteriors realleges its answers in Paragraphs 1 through 23 above as if restated here verbatim.

25. In response to Paragraphs 304 and 305, All Exteriors denies that it entered into any written subcontracts for whatever work it performed on the One Hamlin Place buildings numbered 6, 7, 8, 9, 10, 11 or part of 5. Further responding, All Exteriors lacks sufficient knowledge or information to admit or deny which of the RP Companies, if any, were responsible for building the One Hamlin Place buildings numbered 5, 6, 7, 8, 9, 10, or 11 and, therefore, All Exteriors denies the remaining allegations contained in Paragraphs 304 and 305.

26. All Exteriors denies the allegations contained in Paragraphs 306 and 307 and demands strict proof thereof.

27. All Exteriors denies that the RP Companies are entitled to their requested relief contained in the unnumbered "Wherefore" paragraph and demand strict proof thereof.

FOR A SECOND DEFENSE

28. The RP Companies' cross claims fail to set forth sufficient facts to constitute a cause of action and, therefore, should be dismissed pursuant to Rule 12(b)(6), SCRCP.

FOR A THIRD DEFENSE

29. Even if All Exteriors was negligent in any respect, which is expressly denied, and such conduct operated as a proximate cause of the RP Companies' injuries, if any, which is expressly denied, All Exteriors alleges the RP Companies' negligent, grossly negligent, reckless, willful, and wanton conduct contributed more than fifty percent (50%) to the cause of the accident, and therefore, the RP Companies' claims are barred.

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FOR A FOURTH DEFENSE

30. Even if All Exteriors was negligent in any respect, which is expressly denied, and even if such conduct on the part of All Exteriors operated as a greater than fifty percent (50%) cause of the RP Companies' injuries, if any, which is also denied, All Exteriors is entitled to a determination as to the percentage which the RP Companies' negligent, grossly negligent, reckless, willful, and wanton conduct contributed to the RP Companies' accident and resulting injuries, if any, and to a reduction of any amount awarded to the RP Companies by an amount equal to the percentage of the RP Companies' own negligence.

FOR A FIFTH DEFENSE

31. Such injuries or losses as the RP Companies sustained, if any, were caused by the contributory negligence, carelessness, recklessness, willfulness, and wantonness of the RP Companies and All Exteriors pleads the RP Companies' contributory negligence as a complete defense to this action.

FOR A SIXTH DEFENSE

32. Any injuries or damages sustained by the RP Companies were due to and caused and occasioned by the RP Companies' own negligence, gross negligence, recklessness, willfulness, and wantonness which was the direct and proximate cause of the RP Companies' alleged injuries or damages, if any, and without which the same would not have occurred, and therefore, due to the RP Companies' sole negligence, gross negligence, recklessness, willfulness, and wantonness, the RP Companies' claims are barred.

FOR A SEVENTH DEFENSE

33. Any injuries sustained by the RP Companies were due to and caused by the sole negligence of third persons over whom All Exteriors had no control, and therefore, All Exteriors

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should not be liable to the RP Companies in any sum whatsoever.

FOR AN EIGHTH DEFENSE

34. Any injuries sustained by the RP Companies were due to and caused by the intervening and superseding acts of negligence, carelessness, recklessness, and gross negligence on the part of third persons as a proximate cause of injuries as alleged, if any, and therefore, All Exteriors should not be liable to the RP Companies in any sum whatsoever.

FOR A NINTH DEFENSE

35. The RP Companies' claims may be barred by the doctrine of estoppel.

FOR A TENTH DEFENSE

36. The RP Companies' claims may be barred or otherwise reduced due to the failure to mitigate damages as required by law.

FOR AN ELEVENTH DEFENSE

37. The RP Companies' claims may be barred by the doctrine of laches.

FOR A TWELFTH DEFENSE

38. All Exteriors asserts that some or all of the claims against it are barred by applicable statutes of limitation or statutes of repose.

FOR A THIRTEENTH DEFENSE

39. The RP Companies failed to comply with the terms and conditions of The South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, S.C. Code Ann. §40-59-810; therefore, all claims are subject to being stayed and/or permanently stayed.

FOR A FOURTEENTH DEFENSE

40. Any recovery by the RP Companies must be reduced or offset by amounts the RP Companies received or will receive from others or that the RP Companies receive directly for the

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same injuries claimed in this lawsuit.

FOR A FIFTEENTH DEFENSE

41. The RP Companies' claims may be barred by the doctrine of waiver.

FOR A SIXTEENTH DEFENSE

42. Punitive damages, as currently awarded in South Carolina, are violative of the United States Constitution and South Carolina Constitution, as well as the holding of *State Farm Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), and the cases upon which it is based.

FOR A SEVENTEENTH DEFENSE

43. Pursuant to *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424, 121 S.Ct. 1678 (2001), if punitive damages are recoverable, which is denied, the amount of punitive damages "[are] not really a fact tried by the jury;" therefore the RP Companies' request for punitive damages "to be determined by the jury" violates the United States Constitution.

FOR AN EIGHTEENTH DEFENSE

44. The U.S. Constitution's Due Process Clause "forbids a State to use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties or those whom they directly [do not] represent," *Phillip Morris USA v. Williams*, 127 S.Ct. 1057, 1063 (U.S. 2007), and, therefore, to the extent that the RP Companies seek an award of punitive damages for potential or speculative harm to non-parties to the present action, such prayer for relief is unconstitutional and must be struck from the pleadings and is otherwise inadmissible at trial.

FOR A NINETEENTH DEFENSE

45. Notwithstanding All Exteriors' prior defenses incorporating *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424 (2001) and *State Farm Mutual Automobile*

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Insurance Company v. Campbell, 538 U.S. 408 (2003), and the cases upon which they are based, in the event the trial court permits the jury to return a punitive damages award in the instant case, such damages are to be limited to an amount that is no greater than the jury's award of actual damages, as explicated within *Exxon Shipping Company v. Baker*, 128 S. Ct. 2605 (2008).

FOR A TWENTIETH DEFENSE

46. To the extent punitive damages are claimed in this action, and to the extent that such an award is not in violation of Defendants' rights under the United States Constitution and the South Carolina Constitution, the limitations and cap provided in S.C. Code § 15-32-530 are applicable and this Defendant specifically asserts the statutory cap on punitive damages, pursuant to the South Carolina Court of Appeal's decision in *Garrison v. Target Corporation*, 429 S.C. 324, 838 S.E.2d 18 (Ct.App. 2020), reh'g den. (Feb. 20, 2020).

FOR A TWENTY-FIRST DEFENSE

47. The work and services that may have been provided by All Exteriors were in conformity with the standard of care for that time.

FOR A TWENTY-SECOND DEFENSE

48. No act or omission by All Exteriors in the performance of its professional services proximately caused the alleged damages for which Plaintiffs now seek to recover and, as a result, the RP Companies are not entitled to any recovery from All Exteriors.

FOR A TWENTY-THIRD DEFENSE

49. Although the RP Companies purportedly have alleged separate third-party claims sounding in indemnity, negligence, breach of warranty, breach of contract, the causes of action asserted against All Exteriors are nothing more than claims for equitable indemnification with slight changes in wording and different titles. Pursuant to *Stoneledge at Lack Keowee Owners' Association, Inc., et al. v. Clear View Construction, LLC, et al.*, 413 S.C. 615, 776 S.E.2d 426

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(2015) and *Stoneledge at Lake Keowee Owners' Association, et al. v. Builders Firstsource – Southeast Group, et al.*, 413 S.C. 630, 776 S.E.2d 434 (2015), and other relevant case law, the RP Companies' cross claims are nothing more than different wordings of the equitable indemnity claim and all claims other than for equitable indemnity claim should be dismissed.

FOR A TWENTY-FOURTH DEFENSE

50. All Exteriors asserts that the RP Companies' claims for indemnity fail since the RP Companies cannot be deemed an innocent party and the RP Companies do not have a substantial relationship with All Exteriors.

FOR A TWENTY-FIFTH DEFENSE

51. To the extent the RP Companies assert claims for contractual indemnity, these claims fail to the extent the RP Companies cannot produce the original documentation and/or to the extent its allegations contradict the language of any such subcontract.

FOR A TWENTY-SIXTH DEFENSE

52. All Exteriors asserts that any construction work was performed in conformance with the plans and specifications, as provided and conveyed to All Exteriors, and, therefore, All Exteriors is entitled to a complete defense pursuant to *U.S. v. Spearin*, 39 S.Ct. 59 (U.S. 1918) and the common law that applies the *Spearin Doctrine*.

FOR A TWENTY-SEVENTH DEFENSE

53. All Exteriors asserts that the various claims set forth in the RP Companies' cross claims and third-party claims asserted in response to Plaintiffs' Third Amended Complaint seek multiple damages on different theories for the same loss, and the RP Companies are not entitled to recover multiple damages for the same loss, as such constitutes a double recovery.

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FOR A TWENTY-EIGHTH DEFENSE

54. All Exteriors pleads the RP Companies' acceptance of the work that may have been performed by All Exteriors as a complete defense to the cross claims

FOR A TWENTY-NINTH DEFENSE

55. All Exteriors incorporates by reference any affirmative defenses raised by any other Defendant in this action.

FOR AT THIRTIETH DEFENSE

56. All Exteriors specifically reserves any additional and/or affirmative defenses as may be available to it or revealed to it during the course of the investigation and/or discovery in this case.

WHEREFORE, having fully answered the RP Companies' third-party claims asserted in response to Plaintiffs' Third Amended Complaint, Defendant All Exteriors Construction, LLC pray for the dismissal of the cross claims, for costs and attorneys' fees defending this action, and for such other and further relief as this Honorable Court deems just and proper.

[signature page attached]

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Respectfully submitted,
COLLINS & LACY, P.C.

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Columbia, South Carolina
December 4, 2020