

Mark Mychajluk,)
 Eric Jazwinski,)
 Southern Framing Corporation,)
 AB Consulting Engineers, Inc.,)
 Geometrics Consulting, LLC,)
 WWI Development Company, LLC,)
 Michael Dawson Construction, Inc.,)
 Asphalt Paving & Maintenance Co., Inc., and)
 Chuck's Construction Co., Inc.,)
)
 Defendants,)
)
)

TO: THE DEFENDANTS ABOVE NAMED:

The Plaintiff, above named, complaining of the Defendants herein, respectfully alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff Rivergate Homeowners' Association, Inc. (hereinafter Plaintiff) is a non-profit corporation organized and existing under the laws of the State of South Carolina with its principle place of business in Horry County, South Carolina. Plaintiff Rivergate Homeowners' Association, Inc. has individual homeowners on the Board of Directors and has controlled the homeowners association and the Board of Directors since November 1, 2007.

2. WW & LB Development Company, LLC (hereinafter WW & LB) is a corporation organized and existing pursuant to the laws of South Carolina and conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

3. Defendant RWG, Inc. (hereinafter RWG) is a corporation organized and existing pursuant to the laws of South Carolina and conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

4. Defendant Aiello Associates (hereinafter Aiello) is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

5. Defendant Daniels Engineering, Inc. (hereinafter Daniels) is a corporation organized and existing pursuant to the laws of South Carolina and conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

6. Defendant Rivergate Homeowners' Association, Inc. (hereinafter HOA) is a non-profit corporation organized and existing under the laws of the State of South Carolina with its principle place of business in Horry County, South Carolina. The Rivergate Homeowners' Association, Inc. was formed pursuant to the Master Deed for the Rivergate Horizontal Property Regime whose responsibilities include, but are not limited to, maintenance and repair of the property. The Defendant Rivergate Homeowners' Association, Inc. was controlled by the developer Wayne Winderman from the inception of the HOA until October 31, 2007.

7. Rivergate Homeowners' Association, Inc. Board of Directors (hereinafter Board of Directors) is the entity that was responsible for the administration of the HOA. This lawsuit is specific as to the Board of Directors from the inception of the Rivergate project to October 31, 2007.

8. Wayne Winderman (hereinafter Winderman) was a Board member and president of the HOA from the inception of the Rivergate project to October 31, 2007.

9. Salvatrice Foran was a Board member and vice-president, secretary, and treasurer of the HOA from the inception of the Rivergate project to October 31, 2007.

10. Gerard Foran was a Board member of the HOA from the inception of the Rivergate project to October 31, 2007.

11. Marcos Soares, individually, and d/b/a M.S. Construction Defendant (hereinafter Soares) is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

12. William C. De Souza is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

13. James Eason, individually, and d/b/a James Eason & Company is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

14. D & D Cleaning and Construction, Inc. is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

15. Joel's Framing is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

16. Jo Freza is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

17. Aroldo Garcia is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

18. Joaquin Geraldo Zeferino, individually, and d/b/a Zeferino Framing is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

19. Leo Trombley is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

20. Judy Schultz is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

21. J & D Interior Design is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

22. Jose Dasmerces d/b/a J. P. Construction is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

23. Scott Chandler d/b/a Coastal Custom Windows & Doors is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

24. R & D Construction is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

25. Nicasio Ramirez Zunigo is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

26. Walchir Morais is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

27. Marco Trebbi is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

28. Blakenship Roofing, Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

29. DLJ Construction, L.L. C. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

30. Dewayne Bates is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
31. The Bates Group, LLC is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
32. Bridges Construction Co. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
33. Brewer Construction, Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
34. Speedy Concrete is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
35. REB-FEL, Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
36. Mark Mychajluk is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
37. Eric Jazwinski is an individual or company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
38. Southern Framing Corporation is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
39. AB Consulting Engineers, Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.
40. Geometrics Consulting, LLC is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

41. WWI Development Company, LLC is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

42. Michael Dawson Construction, Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

43. Asphalt Paving & Maintenance Co., Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

44. Chuck's Construction Co., Inc. is a company that conducts business by and through its officers, agents, servants, and employees in Horry County, South Carolina.

45. The HOA owns property in Horry County, South Carolina.

46. Defendant WW & LB owns property that consists of the Rivergate Horizontal Property Regime.

47. Jurisdiction is proper in Horry County, South Carolina.

48. Venue is proper in Horry County, South Carolina.

FACTS COMMON TO ALL CAUSES OF ACTION

49. Defendant WW & LB holds or has held certain real estate in Horry County, South Carolina that was developed into the Rivergate Horizontal Property Regime project (hereinafter Rivergate project).

50. Defendant WW & LB developed the Rivergate project.

51. Defendant WW & LB built individual townhome units in the Rivergate project.

52. Defendant WW & LB marketed individual townhome units in the Rivergate project.

53. Defendant WW & LB used in-house construction managers for the construction of the Rivergate project.

54. Defendant WW & LB used in-house architects for the construction of the Rivergate project.

55. Defendant WW & LB used in-house purchasing agents for the construction of the Rivergate project.

56. Defendant WW & LB used in-house, on-site construction superintendents for the construction of the Rivergate project.

57. Defendant WW & LB was the General Contractor for the Rivergate project.

58. Defendant RWG was the General Contractor for the Rivergate project.

59. Defendant RWG provided labor to install the framing, sheathing, Tyvek, roof felt, doors, windows, and siding at the Rivergate project.

60. Defendant RWG provided labor and material to install the soffit/fascia and vinyl handrails at the Rivergate project.

61. Defendant Aiello designed Building 25 (units 4235, 4237, 4243, and 4245) at the Rivergate project.

62. Defendant Daniels engineered the buildings that were constructed at the Rivergate project.

63. Defendants Rivergate HOA and Board of Directors was responsible for maintaining and repairing the common elements of the HOA. This applies to the developer-controlled HOA and Board of Directors.

64. Defendant Soares provided labor for all the framing, sheathing, Tyvek, and roof felt as a subcontractor to Right Way and RWG on Buildings 3 and 25, a portion of the framing,

FOURTH CAUSE OF ACTION

(UNFAIR TRADE PRACTICES: ALL DEFENDANTS (REFERS TO ABOVE STATED DEFENDANTS AND THEIR SPECIFIC SCOPE OF WORK) EXCEPT HOA, BOARD OF DIRECTORS, WINDERMAN, SALVATRICE FORAN, AND GERARD FORAN)

121. Plaintiff reference and incorporate every allegation set forth above as if fully repeated verbatim herein.

122. Defendants design, develop, and construct buildings that are defective and deficient.

123. Defendants have been aware of these defects and deficiencies, but continue to build the buildings without any concern for the public interest.

124. Defendants' actions impact the public interest.

125. Defendants' actions have been repeated or have the potential for repetition in the future.

126. As a direct result and proximate cause of Defendants' actions, Plaintiff incurred actual damages including, but not limited to, the amount equal to the extraordinary repair, maintenance, and reconstruction costs required and expended and to be expended in the future over the expected life of the structure, loss of use, and diminution in value, and continuous and repeated damages.

127. Defendants' actions were willful or Defendants could have ascertained that the above-mentioned conduct violated the Unfair Trade Practices Act and, therefore, Plaintiff is entitled to treble damages.

FIFTH CAUSE OF ACTION

(NEGLIGENCE: WW & LB, HOA, AND BOARD OF DIRECTORS)

128. Plaintiff references and incorporates every allegation set forth above as if fully repeated verbatim herein.

129. Defendants owed a duty to Plaintiff to exercise the degree of skill and professionalism necessary to supervise, operate, maintain, or repair the HOA and Rivergate project.

130. Defendants owed a duty to Plaintiff to ensure that the HOA and Rivergate project was operated in an efficient and business-like manner.

131. Defendants were, individually, jointly, or in combination, negligent, grossly negligent, wanton, willful, and careless in one or more of the following:

- a. In failing to exercise the degree of skill and professionalism necessary to supervise, operate, maintain, or repair the HOA and Rivergate project.
- b. In failing to operate the HOA and Rivergate project in an efficient and business-like manner;
- c. In failing to use good business practices for the supervision, operation, maintenance, or repair of the HOA and Rivergate project;

132. Defendants failed to use the degree of skill, professionalism, and good business practices that an ordinarily prudent person or entity would have used to supervise, operate, maintain, or repair the HOA and Rivergate project, all of which were the direct and proximate cause of the damages suffered by the Plaintiff.

133. Based on the above, Plaintiff are entitled to actual damages, punitive damages, continuous and repeated damages, attorney's fees, and costs of this action.

SIXTH CAUSE OF ACTION
**(CIVIL CONSPIRACY: WW & LB, HOA, BOARD OF DIRECTORS, WINDERMAN,
SALVATRICE FORAN, AND GERARD FORAN)**

134. Plaintiff references and incorporates every allegation set forth above as if fully repeated verbatim herein.

135. Defendants combined their actions at the Rivergate project. Defendants' combined actions include, but are not limited to, refusing to repair construction defects, refusing to respond to homeowner complaints, and obstructing the repair of the Rivergate project.

136. Defendants purposefully combined their actions to injure Plaintiff as necessary repairs were not initiated or completed at the project.

137. As a result of Defendants' actions, Defendants caused the Rivergate project to go without necessary repairs and sustain continuous and repeated damages.

138. Based on the above, Plaintiff is entitled to actual damages including, but not limited to, repair costs, loss of profits, diminution in value, continuous and repeated damages, and punitive damages.

SEVENTH CAUSE OF ACTION
**(BREACH OF FIDUCIARY DUTY: BOARD OF DIRECTORS, WAYNE
WINDERMAN, SALVATRICE FORAN, AND GERARD FORAN)**

139. Plaintiff references and incorporates every allegation set forth above as if fully repeated verbatim herein.

140. Defendants refused to repair construction defects, refused to respond to homeowner complaints, and obstructed the repair of the Rivergate project.

141. Defendants failed to act with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

142. Defendants failed to act in a manner that they reasonably believed to be in the best interests of the HOA.

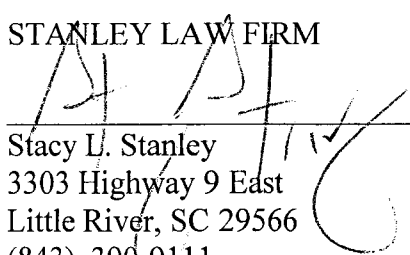
143. Plaintiff has suffered damages as a result of Defendants' actions, all of which were the direct and proximate cause of the damages suffered by the Plaintiff.

144. Based on the above, Plaintiff is entitled to actual and punitive damages for harm caused by the breach of fiduciary duty owed to Plaintiff.

WHEREFORE, the Plaintiff prays as follows:

- A. For the amount equal to actual damages that includes, but is not limited to, the extraordinary repair, maintenance, and reconstruction costs required and expended and to be expended in the future over the expected life of the structure, loss of use, and diminution in value of the Rivergate project;
- B. For punitive damages;
- C. For treble damages;
- D. For continuous and repeated damages;
- E. For the costs and disbursements of this action; and
- F. For such other and further relief as this Court may deem just and proper.

STANLEY LAW FIRM


Stacy L. Stanley
3303 Highway 9 East
Little River, SC 29566
(843) 390-9111
Attorney for the Plaintiffs

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