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7
8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF VENTURA

10 **ABC COMMUNITY ASSOCIATION, a non-**
11 **profit corporation,**

12 **Plaintiffs,**

13 **v.**

14 **XYZ a California Corporation and DOES 1 -**
15 **500.**

16 **Defendants.**

) **CASE NO.:**
)
)
)
)
) **[PROPOSED] CASE MANAGEMENT**
) **ORDER**

18) **FILED:**
19)
20)

21 **IT IS HEREBY ORDERED** that the provisions set forth below shall be the Case Management
22 Order (hereafter "Order") for the above-captioned action (hereafter the "Action"): This Case Management
23 Order (CMO) shall supersede, in all respects, any prior CMO which may be on file in this matter.

24 **1. REFERENCES AS TO DISCOVERY, CASE MANAGEMENT AND**
25 **MEDIATION:**

26 Pursuant to C.C.P. Section 638 (Insert Name) is appointed as Referee, Discovery Referee and
27 Mandatory Settlement Conference Officer to hear and determine any and all discovery motions and disputes
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1 relevant to discovery in the action, to report findings and make recommendations thereon and to manage,
2 organize, conduct mandatory settlement conferences and mediate the action.

3 **2. NOTICE OF APPEARANCE/NEW PARTIES:**

4 Any party served with a complaint or cross complaint herein who is not required to serve a responsive
5 pleading shall file a "Notice of Appearance" identifying the party and counsel therefor within thirty (30) days
6 of service of said complaint or cross complaint. Copies of this, and all subsequent CMO's, are to be served
7 on all new parties with the Complaint or Cross-Complaint bringing that party into the action. All parties
8 appearing in this action after the date this CMO is entered, shall comply with the terms hereof upon receipt of
9 the service of this Order, except as otherwise specified in this Order.

10 **3. CUT-OFF DATES TO ADD PARTIES:**

11 The last date to serve new parties and add new Plaintiffs absent showing of good cause is June 3,
12 2002.

13 **4. DEEMED TO HAVE ANSWERED:**

14 All Defendants and Cross-Defendants appearing in this action, with the exception of complaints or
15 cross-complaints against design professionals and contractors for whom a Certificate of Merit is required under
16 C.C.P. Sections 411.35 and 411.36, respectively, are deemed to have filed and served cross-complaints for
17 implied and equitable indemnity, apportionment of fault and declaratory relief against one another. Said
18 cross-complaints are deemed to have been answered and generally denied, and all available affirmative
19 defenses are deemed raised in connection therewith **unless the cross-defendant/defendant files and**
20 **serves a Notice of Opt-Out of the Deemed to Have Answered section of this Case Management**
21 **Order.** Pursuant to C.C.P. Sections 411.35 and 411.36, complaints or cross-complaints against design
22 professionals and contractors for whom a Certificate of Merit is required pursuant to said section, shall be
23 accompanied by a Certificate of Merit by each party asserting any such complaint or cross-complaint.

24 All complaints or cross-complaints filed and served against any and all design professionals and
25 contractors for whom a Certificate of Merit is required under C.C.P. Sections 411.35 and 411.36 must be
26 answered separately by said professional, and any and all affirmative defenses must be raised in said pleading
27 in the normal manner. Complaints or cross-complaints adding any other theory of liability or alleging any new
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1 cause of action or adding a new party, or adding new defects shall be plead and filed no later than May 6,
2 2002. In addition to any such complaint or cross-complaint served on any new party, there will be served
3 together therewith, a schedule of dates which sets forth all significant deadlines as detailed in the operative case
4 management order, and a copy of the most current service list.

5 **5. DEFAULT FOR FAILURE TO TIMELY RESPOND:**

6 All parties are ordered to take a default if any newly served party does not file a Notice of Appearance
7 or other responsive pleading after writtendemand within forty-five (45) days following service of any such new
8 party.

9 **6. DOCUMENT DEPOSITORY:**

10 All parties appearing in this action as of March 27, 2002, shall deposit into the Document Depository
11 all non-privileged documents as described in Exhibit "A", attached hereto and incorporated herein by
12 reference, on or before March 18, 2001. The Document Depository shall be established at INSERT NAME
13 AND ADDRESS. Each deposit shall be accompanied by an index of all said documents deposited and a
14 "Notice of Compliance," served on all parties, stating a general description of the document(s) produced and
15 the date of production utilizing the alphabetical code assigned to the depositing party, as identified in Exhibit
16 "B" hereto.

17 Any party not depositing all documents identified in Exhibit "A" in its possession, custody or control
18 shall, in the "Notice of Compliance:" (1) identify the document(s) withheld with sufficient particularity for a
19 motion to compel; and (2) state the basis for refusing to produce each document, the particular privilege(s) or
20 doctrine(s) upon which protection against disclosure is based. When appropriate, the Referee may require
21 that the documentation or claims of privilege be verified. In the case of parties not appearing before February
22 4, 2002, such parties shall deposit their documents in accordance with the procedure set forth above within
23 thirty (30) days from service of this order. All parties are under a continuing obligation to deposit all
24 non-privileged documents discovered after the initial production. In the event that a party subsequently
25 discovers documents, that party shall deposit said documents and follow the same procedure set forth in this
26 Order with respect to identification thereof.

27 **7. NON-PARTY DISCOVERY:**

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1 Any party shall be allowed to conduct non-party document discovery upon proper notice to all parties,
2 and is hereby required to deposit any such discovery in the Document Depository.

3 Certificates of insurance and/or evidence of insurance coverage materials to this subject litigation shall
4 be deposited into the Document Depository, within forty-five (45) days of delivery to counsel, and said notice
5 of said deposit shall be given to all parties of record.

6 Each party will deposit a copy of every different set of plans, and all amendments thereto, in its
7 possession into the Document Depository. Original vellums of all plans, blueprints or construction schemes,
8 if available, will be deposited in the Document Depository by each party in possession of such vellums. In the
9 event original vellums are not available, blue line copies will suffice. Should non-original vellums be in existence
10 and in the possession of any party, said party will note this within their Notice of Compliance. Should any
11 party wish to obtain copies of such vellums, the party in possession of non-original vellums will agree to make
12 said vellums available by mutual and equitable agreement. All parties agree to maintain the original documents
13 in their possession and deposit copies. However, if a party wishes to see any original documents, the party
14 shall be allowed to so upon reasonable notice to counsel.

15 Parties who deposit documents which do not conform to this Order will be given seven (7) days to
16 rectify. Failure to comply will be reported by Paulson's Court Reporters to Plaintiffs and Defendants. If the
17 party fails to rectify within seven days (7) of demand by any party, any party may bring a motion to compel
18 compliance. The cost of photocopying, inventorying and indexing documents or other materials deposited into
19 the Depository shall be borne solely by the party depositing such documents or materials.

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22 **8. STATEMENT OF WORK:**

23 All Defendants and Cross-Defendants that have appeared in this action as of the date of execution of
24 this Order are required to serve on all parties and the Document Depository, within thirty (30) days of
25 execution of this Order, a Statement of Work and/or involvement with the project, detailing the work done by
26 that party, in the form attached hereto as Exhibit "C". Any party that appears in this case after the date of
27 execution of this Order must complete and serve on all parties the Statement of Work form within thirty (30)
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1 days of service of the Notice of Appearance or other responsive pleading required by this Order. Also, each
2 party shall deposit into the document depository copies of all subcontract agreements. Any party appearing
3 after that date shall deposit said documents within thirty (30) days of its appearance. Each party shall file a
4 Notice of Compliance regarding each such deposit.

5 **9. INSURANCE QUESTIONNAIRE:**

6 All parties that have appeared in this action as of the date of execution of this Order are required to
7 serve on all parties and the Document Depository, within thirty (30) days of execution of this Order, a
8 completed Insurance Questionnaire, detailing whether and to what extent each party is insured, in the form
9 attached as Exhibit "D". Any party that appears in this case after the date of execution of this Order must
10 complete and serve on all parties the Insurance Questionnaire form within thirty (30) days of service of the
11 Notice of Appearance or other responsive pleading required by this Order. Any party appearing after the date
12 of execution of this CMO shall deposit said documents within thirty (30) days of its appearance. Each party
13 shall file a notice of compliance regarding each such deposit.

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15 **10. SPECIAL INTERROGATORIES:**

16 All parties which have appeared in this case as of the date of the execution of this Order, shall respond
17 to the Special Insurance Interrogatories, attached hereto as Exhibit "E", and incorporated herein by reference,
18 within thirty (30) days of the date of this signed Order, or within thirty (30) days of the date of appearance,
19 whichever is later. The responses to the Special Interrogatories will be served on all parties and deposited in
20 the Document Depository.

21 **11. REFEREE'S FEES AND PAYMENT PROCEDURE:**

22 The fees of the Referee in the above-referenced case shall be paid as follows: one-half by Plaintiff;
23 and one-half by all other defendants collectively. The Referee's fee is \$_____ per hour. The Referee shall
24 submit periodic billings for portions of fees to be paid by Plaintiff, Defendant(s) and Cross-Defendants. Said
25 monthly statements are to be paid within thirty (30) days of receipt. The Referee in this matter is _____
26 _____. The Referee shall act in the following capacities: [i] As Mandatory Settlement Conference
27 Officer over all mediation proceedings; and,
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1 [ii] As discovery referee with respect to all discovery disputes and amendment of pleadings. The
2 Referee shall have discretion to order any party to appear and participate in mediation. In the event of a
3 discovery dispute, the disputing parties shall notify the Referee of the discovery dispute. Thereafter, the
4 Referee shall have the discretion to order any party to prepare a brief pertaining to a discovery dispute, as
5 deemed necessary by the Referee. The Referee shall have complete discretion insofar as resolving all
6 discovery disputes. Ex Parte communications with the Referee regarding discovery disputes are forbidden
7 other than initially notifying the Referee of the existence of the discovery dispute.

8 **12. DISCOVERY STAY:**

9 All discovery not specifically authorized by this Order is stayed until further order of the Referee.
10 However, any party shall be allowed to conduct non-party written discovery upon written notice to all parties
11 and shall deposit that discovery, all written responses and all documents produced in response to any such
12 non-party discovery, in the Document Depository. In the event this matter is not settled, the discovery stay
13 shall be lifted by the Referee 120 days prior to the trial date.

14 **13. OBTAINING RELIEF:**

15 Upon a showing of "good cause", any party may obtain relief from any of the foregoing Orders.

16 **14. MOTION CUT-OFF:**

17 All non-discovery motions shall be heard pursuant to, and in accordance with the Provisions of the
18 Code of Civil Procedure.

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20 **15. DESIGNATION OF PERSON(S) MOST KNOWLEDGEABLE:**

21 Designations of the Person Most Knowledgeable (PMK's) regarding work performed at (name of
22 project) and contact negotiations regarding the construction of (name of project) shall be prepared, in pleading
23 form, served on all parties and deposited into the document depository, on or before April 5, 2002, or thirty
24 (30) days after a party's first appearance in this matter, which ever is sooner.

25 **16. INTERIOR SITE INSPECTIONS:**

26 Plaintiff shall provide site access to Defendants and Cross-Defendants and their experts for
27 non-invasive walk-thru inspections of certain unit interiors as well as common areas. Said inspection shall be
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1 conducted April 22 thru 26, 2002. Should parties wish to perform inspections subsequent to this time frame,
2 it will be arranged through counsel upon reasonable request.

3 **17. PRELIMINARY DEFECT LIST:**

4 Plaintiff shall provide to the Court and serve on all parties, a Preliminary List of Defects on or before
5 May 15, 2002, and shall deposit a copy thereof in the Document Depository. Said defect list shall include all
6 defects, which, within the exercise of reasonable diligence, have been and can be discovered as of the date
7 of service. Said list shall also include suspected defects that will be investigated during either intrusive or
8 non-intrusive inspections.

9 **18. INITIAL JOINT PLAINTIFF/DEVELOPER TESTING:**

10 A. Initial Testing: Initial testing will be scheduled for all parties' observation. Plaintiff will provide
11 to the Developer by May, 2002, a proposed scope of initial testing and a bid from a qualified contractor to
12 perform the same. To the extent possible, the individual issues to be jointly destructive testing will be identified
13 in the notice of initial testing and limited to plaintiff's preliminary defect list. The initial testing is preliminarily
14 set for May, 2002.

15 Following the issuance of plaintiff's initial request for joint testing and bid for the same, the Developers
16 will issue a joint testing statement identifying any objections to plaintiff's notice of joint testing, and/or any
17 additional areas to be tested, and a counter bid, if applicable. This statement will be provided to plaintiffs
18 counsel within thirty days (30) after the service of plaintiff's statement of joint testing. Thereafter the parties
19 will meet and confer on , 2001, to finalize the scope of joint testing. All disputes regarding the scope or cost
20 or contractor to perform said testing shall be submitted to the referee for resolution. Additionally, in the event
21 the parties are unable to agree upon a particular item of joint testing, that party still may perform this testing at
22 its sole expense, unless otherwise objectionable.

23 As to the items included under joint testing, all costs of the same shall be divided equally between the
24 plaintiff and the developer defendants. Plaintiff shall bear its own costs in regard to investigation of any other
25 claim not raised in Plaintiff's preliminary defect list, or otherwise not within the agreed upon scope of joint
26 testing. All parties shall bear their own costs for expert consultants.

1 Plaintiff, in conjunction with developer defendants, shall notice the dates for destructive testing in a
2 reasonable time, and shall provide at least ten (10) days prior notice as to the initial testing schedule now
3 contemplated to begin on or about May, 2001.

4 B. Additional Testing. Plaintiff is not precluded from conducting additional investigation or
5 destructive testing at its sole expense prior to the issuance of plaintiff's final defect list, and as long as all parties
6 are provided with at least five (5) court days notice of this testing.

7 Clean up testing for all parties shall be scheduled between May 20 through May 24, 2002. All parties
8 shall bear their own costs with respect to clean up testing, however, the units, terms, and contractor to perform
9 such testing must be approved by plaintiff's counsel. Any dispute regarding the same shall be submitted to the
10 Referee for a ruling. Any defendant or cross-defendants seeking to perform such testing shall submit a request
11 for the testing to plaintiff's counsel and serve the same upon all parties in the form attached hereto as Exhibit
12 "F" on or before May 1, 2002. Said request shall include the type of testing requested, and the unit/plan type
13 for each test.

14 C. The contractors performing the testing and repairs at the project shall provide a complete lien
15 release to the homeowners association and hold the association harmless for any claims for unpaid costs of
16 testing. The lien release form is attached hereto as Exhibit "F"

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20 **19. EXPERT MEETINGS:**

21 Parties shall make available their experts for meetings with opposing counsel's experts from time to time
22 as necessary and upon reasonable request. Initial meetings between plaintiff and defendants' experts will occur
23 the week of June 1, 2002 through June 31, 2002, or a mutually convenient time.

24 **20. FINAL DEFECT LIST AND COST TO REPAIR:**

25 Following destructive testing, Plaintiff will have the opportunity to amend and supplement its
26 preliminary defect list. Said amended report will constitute plaintiff's Final Defect List and shall be deposited
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1 into the Document Depository on or before July 23, 2002. Plaintiff's Cost To Repair Estimate will be deposited
2 not later than August 23, 2002.

3 Said amended reports shall identify all of the alleged deficiencies, recommendations for repair, methods
4 of proposed repairs, and estimated costs of proposed repairs. The amended reports shall include a method
5 and cost of repairs which shall be served by mail on all parties of record and deposited in the Document
6 Depository. The defects, damages and claims specified in the final defect list shall include all of the defects,
7 damages and claims for which Plaintiff makes a claim in this Action. The final defect list may not subsequently
8 be amended except by written stipulation of all of the parties that have appeared, or by order of the Court
9 upon a showing of good cause.

10 **21. DEPOSITIONS:**

11 Any party requesting these depositions shall serve by September 16, 2002, an initial list of all witnesses
12 to be deposed. Thereafter, Counsel shall coordinate on a schedule for these depositions. Additional
13 depositions may be scheduled at the request of the parties.

14 The depositions of the Defendants' and/or Cross-Defendants' persons most knowledgeable and
15 Homeowners and experts may be taken after October 1, 2002, until thirty (30) days before trial. Any party
16 requesting these depositions shall include the names of the persons and/or parties to be deposed in their request
17 for depositions served September 16, 2002. Thereafter, all Counsel shall coordinate on a schedule for these
18 initial depositions. Additional depositions may be scheduled at the request of the parties.

19 Expert depositions shall commence on or after October 21, 2002, and shall be completed fifteen (15)
20 days before trial. Generally, where practical, Plaintiff's experts in a particular field will be deposed first,
21 followed by the General Contractor defendants' experts in that field, followed by the Cross-Defendants'
22 experts in that particular field. Counsel shall develop this schedule at least ten days before the commencement
23 of the depositions.

24 Any dispute as to the scheduling of these depositions shall be subject to ruling by the Special Referee.
25 If Plaintiff amends the Final Defect List or Cost to Repair after Plaintiff's experts are deposed said experts may
26 be re-deposed with respect to any amended matters.

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1 The costs of the reporter for any deposition will be divided equally among the parties present. In
2 regards to the expert depositions, any attorney asking questions of the expert being deposed shall pay the
3 expert fees for the time that attorney spends questioning. Each questioning attorney must be prepared to write
4 a check for the experts' fees on the day that attorney asks questions.

5 **22. MEDIATION:**

6 This action (including issues raised in the complaint, any amendments thereto and all cross-complaints)
7 shall be submitted to mediation. The mediation shall be for settlement purposes only and on the
8 recommendations of the Referee shall not be binding on any party. Additionally, the mediation, any discussions
9 pertaining thereto and any pleadings and/or reports (including expert reports) generated for the purpose of
10 mediation, shall be protected from discovery or disclosure pursuant to Evidence Code §1152, §1119, &
11 §1154 and any other laws applicable to the confidentiality of mediation proceedings. There will be an initial
12 mediation session at which plaintiff will present it's case on August 8, 2002. This will also be in the form of
13 Plaintiff's expert presentation and discussion of experts and counsel. Additionally, general mediation sessions
14 by and between all parties are scheduled to occur August 20 and 21, 2002. A final mediation session is
15 scheduled for September 25, 2002. All attorneys must appear together with a representative of the party
16 and/or defending insurance carriers or non-defending insurance carriers which may have a duty to defend or
17 indemnify in person with full settlement authority at all mediations. (City of El Monte v., Takei, 158 CA 3d
18 244; Sigala v. Anaheim City School District 15 CA 4th 661; California Rules of Court 222 and 227; CMO).
19 The only exception is for carriers not having an office in California, and for any such carriers, a representative
20 with full settlement authority shall be available telephonically. Additionally, all Cumis counsel, all coverage
21 counsel (in the event coverage disputes exist) and all experts retained by any of the parties are ordered to
22 attend the mediation unless excused by the Mandatory Settlement Officer. The Mandatory Settlement
23 Conference Officer shall have the discretion to excuse attendance of any party (and their attorneys and other
24 representatives) during portions of the mediation that do not involve their aspect of the case. Plaintiff's counsel
25 shall prepare, and serve on all parties, a schedule for said mediations.

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27 **23. EXPERT DESIGNATION:**
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1 The first designation of expert witnesses shall take place on June 3, 2002. The supplemental
2 designation of expert witnesses shall take place on or before September 9, 2002. Both designations shall
3 conform to the requirements of California Code of Civil Procedure §2034. This Case Management Order is
4 intended to constitute a demand on all parties for exchange of expert information pursuant to California Code
5 of Civil Procedure §2034, and to eliminate the need for all parties to generate their individual demands. All
6 parties shall deposit into the Document Depository all expert materials, including but not limited to, field notes,
7 memos, data, photographs, billing and time records, correspondence, and videotape at least ten (10) business
8 days prior to the deposition of a given expert. Any materials not placed in the Depository must be identified
9 and made available to all parties for reasonable inspection upon advance request

10 **24. REPAIRS BY PLAINTIFF HOA:**

11 No repairs by plaintiff shall be permitted without three (3) days notice to all counsel to allow counsel
12 and their experts to attend and observe. Plaintiff may perform emergency repairs with 24 hours notice.
13 Plaintiff, on written request by Referee or any party to this action, shall explain in writing the need for any such
14 emergency repairs performed. All parties and their attorneys, agents, consultants and representative shall have
15 the right, but not the obligation, to observe such repairs and take photographs.

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18 **25. UPDATED SERVICE LIST:**

19 All parties to this action are directed to provide facsimile numbers and telephone numbers on their
20 service lists, and service list are to be modified and augmented accordingly as of the date of this Order. The
21 Referee shall be advised of any such modification or augmentation.

22 **26. RECOMMENDED TRIAL DATE:**

23 It is anticipated by the Referee that this case will be fully prepared for and that trial should commence
24 on or about January 20, 2003, or as soon thereafter as the Court's calendar may permit.
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1 **IT IS SO STIPULATED BY AND BETWEEN:**

2 DATE:

DICKS & COGLIANESE

A Professional Corporation

3

4

Michael D. Dicks, Esq.
Christopher J. Coglianese, Esq.
Charles R. Fenton, Esq.

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DATE:

DEFENSE COUNSEL

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13 **IT IS HEREBY RECOMMENDED**

SETTLEMENT REFEREE/MEDIATOR

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18 **IT IS SO ORDERED:**

19 DATE: _____, 2002

BY: _____
SUPERIOR COURT JUDGE

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EXHIBIT A

DESCRIPTION OF DOCUMENTS TO BE DEPOSITED

1. Any and all contracts, agreements, notes, memoranda, correspondence, photographs, diagrams, plans, specifications, calculations, journals, invoices, purchase orders, change orders, addenda, reports, job diaries, receipts, accounting records, meeting minutes, writings, CC&Rs, Bylaws, any and all repair documents and invoices, and all maintenance contracts and invoices, any other documents relating to the construction work performed at Homeowners Association and any complaints of defective construction or damage to common areas of units.

2. With exception of the first party, any and all policies of insurance which may potentially provide insurance coverage for any claim asserted against each party, regardless of whether coverage has been reserved or denied by any insurance company. Instead of depositing a copy of the insurance policy, any party may in its place deposit a copy of the declaration page of any said policy, or certificate of insurance.

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EXHIBIT B
LIST OF LETTER CODES FOR DOCUMENT DEPOSITORY
for depository to fill out

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EXHIBIT C

STATEMENT OF SCOPE OF WORK

NAME OF PARTY: _____

NAME OF TRIAL ATTORNEY: _____

DESCRIPTION OF WORK PERFORMED: _____

LOCATION OF WORK PERFORMED: _____

(by phase number, unit number or building number)

INCLUSIVE DATES BETWEEN WHICH WORK WAS PERFORMED: _____

IDENTITY OF PERSON OR ENTITY WITH WHOM YOU CONTRACTED TO PERFORM THE ABOVE DESCRIBED WORK:

DID YOU SUPPLY MATERIALS? ___ YES ___ NO

IF YOU SUPPLIED MATERIALS, DESCRIBE THE MATERIALS YOU PROVIDED:

IF YOU SUPPLIED MATERIALS, IDENTIFY THE PERSON OR ENTITY FROM WHOM YOU PURCHASED THE MATERIALS: _____

NAME: _____

ADDRESS: _____

TELEPHONE NO: _____

DID YOU SUB-CONTRACT ANY OF THE WORK THAT WAS TO BE PERFORMED BY YOU TO ANOTHER PERSON OR ENTITY: ___ YES ___ NO

IF YOU DID SUB-CONTRACT ANY OF YOUR WORK TO ANOTHER, IDENTIFY THE PERSON OR ENTITY TO WHOM YOU SUB-CONTRACTED:

NAME: _____

ADDRESS: _____

TELEPHONE NO: _____

IF YOU DID SUB-CONTRACT ANY OF YOUR WORK TO ANOTHER, WAS THAT SUB-CONTRACTING IN WRITING? ___ YES ___ NO

DATED: March 13, 2003

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EXHIBIT "D"

STATEMENT OF INSURANCE

(Due: Thirty-Five (35) Days After First Appearance or Service of CMO)

1. Policy number;
2. The name and address of insurance carrier and any adjuster assigned to the claim;
3. The name and address of any retail and wholesale brokers;
4. Type of policy (e.g., comprehensive general liability, professional liability, first party property, occurrence and/or claims made);
5. Whether the policy provides operations, completed operations and/or Broad Form Property Damage coverage;
6. Effective dates;
7. Whether there is a deductible or self-insured retention and, if so, any per occurrence, per claim or aggregate amount;
8. Original per occurrence and aggregate policy limits;
9. Remaining policy limits;
10. Identity of all relevant named insureds;
11. Identity of all relevant additional insureds;
12. The date(s) any tender was made; and
13. Whether the carrier accepted or declined coverage and, if accepted, whether it did so under a reservation of rights.

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EXHIBIT "E"

INTERROGATORIES

(Due Thirty-Five (35) Days After First Appearance or Service of CMO)

DEFINITIONS

The term "DAMAGES" shall mean any actual or alleged weakness, fault, flaw, blemish, incomplete work, leak or condition causing any form of water infiltration or any construction condition indicating a failure to comply with the applicable plans or specifications, or a failure to comply with any applicable building codes, construction requirements or applicable standards in the construction industry.

The term "PROJECT" means the residential development more commonly known as Homeowners Association located in Ventura County, in which remains the subject of this Action.

The terms "YOU" and "YOUR" mean the responding party or your respective client and include each person and/or entity acting on its behalf, including, but not limited to, all directors, officers, and agents of the responding party.

The term "LABOR" shall mean all work or toil. "LABORERS" refer to workers for wages and profit including superintendents and the supervision of work.

The term "SERVICES" shall mean all work done or duty performed for you, and anything useful such as supplies, installation, repairs, maintenance or acts rendered by one person to another, the former being bound to submit its will to the direction and control of the latter.

INTERROGATORIES

INTERROGATORY NO. 1:

Are you a corporation? If so, state:

- (a) the name stated in the current articles of incorporation;
- (b) all other names used by the corporation during the past ten (10) years and the dates each was used;
- (c) the date and place of incorporation;
- (d) the address of the principal place of business;
- (e) whether you are qualified to do business in California.

1 INTERROGATORY NO. 2:

2 Are you a partnership? If so, state:

3 (a) the current partnership name;

4 (b) all other names by the partnership during the past ten (10) years and the dates
5 each was used;

6 (c) whether YOU are a limited partnership and, if so, under the laws of what
7 jurisdiction;

8 (d) the name and address of each general partner;

9 (e) the address of the principal place of business.

10 INTERROGATORY NO. 3:

11 Are you a joint venture? If so, state:

12 (a) the current joint venture name;

13 (b) all other names used by the joint venture during the past ten (10) years and the
14 dates each was used;

15 (c) the name and address of each joint venture;

16 (d) the address of the principal place of business.

17 INTERROGATORY NO. 4:

18 Are YOU an unincorporated association? If so, state:

19 (a) the current unincorporated association name;

20 (b) all other names by the unincorporated association during the past ten (10) years
21 and the dates each was used;

22 the address of the principal place of business.

23 INTERROGATORY NO. 5:

24 Have YOU done business under a fictitious name during the past ten (10) years? If
25 so, for each fictitious name state:

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27 (a) the name;

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- 1 (b) the dates each was used;
- 2 (c) the state and county of each fictitious name filing;
- 3 (d) the address of the principal place of business.

4 INTERROGATORY NO. 6:

5 Within the past five (5) years has any public entity registered or licensed YOUR
6 businesses? If so, for each license or registration:

- 7 (a) identify the license or registration;
- 8 (b) state the name of the public entity;
- 9 (c) state the dates of issuance and expiration.

10 INTERROGATORY NO. 7:

11 Please provide the last known name, address, and telephone number of the person or persons most
12 knowledgeable regarding the LABOR and/or SERVICES YOU performed for the PROJECT, and state
13 whether this person or persons is currently employed by YOU:

- 14 (a) with respect to the bidding and contracting for the LABOR and/or SERVICES
15 YOU performed on the PROJECT;
- 16 (b) with respect to the LABOR and/or SERVICES performed at the PROJECT.

17 INTERROGATORY NO. 8:

18 Please provide the name, address, and telephone number of the current owner, partner, managing
19 agent, or employee who is most knowledgeable regarding the LABOR and/or SERVICES YOU performed
20 at the PROJECT.

21 INTERROGATORY NO. 9:

22 Identify YOUR job foreman/construction supervisor for the PROJECT, providing name, last known
23 address and telephone number, and state whether this person is currently employed by YOU.

24 INTERROGATORY NO. 10:

25 Provide the name, title, last known address and telephone number of the person at YOUR company
26 at the time YOU performed YOUR LABOR and/or SERVICES at the PROJECT who was responsible for
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1 obtaining YOUR insurance policies and additional insured endorsements, and state whether this person is
2 currently employed by YOU.

3 INTERROGATORY NO. 11:

4 What LABOR and/or SERVICES did YOU perform on the PROJECT pursuant to a written contract,
5 change order or extra?

6 INTERROGATORY NO. 12:

7 What LABOR and/or SERVICES did YOU perform on the PROJECT pursuant to a oral contract,
8 change order or extra?

9 INTERROGATORY NO. 13:

10 What LABOR and/or SERVICES did YOU perform on the PROJECT pursuant to a implied contract,
11 change order or extra?

12 INTERROGATORY NO. 14:

13 With what person or entity did YOU contract to perform the above-described work?

14 INTERROGATORY NO. 15:

15 Did YOU supply materials to the PROJECT?

16 INTERROGATORY NO. 16:

17 If YOU supplied materials, describe the materials YOU provided, and state the first and last dates on
18 which YOU supplied materials.

19 INTERROGATORY NO. 17:

20 If YOU supplied materials, state to what person(s) or entity(ies) YOU provided them, and provide
21 their last known address and telephone number.

22 INTERROGATORY NO. 18:

23 Did YOU contract any of the work that was to be performed by YOU on the PROJECT to another
24 person or entity?

25 INTERROGATORY NO. 19:

26 If YOU contracted any of YOUR work to another, identify the person(s) or entity(ies) to whom YOU
27 contracted, providing their last known address and telephone number.

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1 INTERROGATORY NO. 20:

2 If YOU contracted any of YOUR work to another, state which portions of that contract was in writing,
3 oral, written and/or implied in fact?

4 INTERROGATORY NO. 21:

5 If YOU did contract any of YOUR work to another, state what work and/or services YOU so
6 contracted.

7 INTERROGATORY NO. 22:

8 Between January 1, 1996 and the present, was there in effect any policy of insurance through which
9 YOU were or might be insured in any manner (for example, primary, pro rata, or excess liability coverage)
10 for the DAMAGES, claims, or actions alleged in this action? If so, for each policy, state the kind of coverage.

11 INTERROGATORY NO. 23:

12 Between January 1, 1996 and the present, was there in effect any policy of insurance through which
13 YOU were or might be insured in any manner (for example, primary, pro rata, or excess liability coverage)
14 for the DAMAGES, claims or actions alleged in this action?

15 INTERROGATORY NO. 24:

16 Between January 1, 1994 and the present, was there in effect any policy of insurance through which
17 YOU were or might be insured in any manner (for example, primary, pro rata or excess liability coverage) for
18 the DAMAGES, claims or actions alleged in this action?

19 INTERROGATORY NO. 25:

20 Between January 1, 1994 and the present, was there in effect any policy of insurance through which
21 YOU were or might be insured in any manner (for example, primary, pro rata or excess liability coverage) for
22 the DAMAGES, claims or actions alleged in this action? If so, for each policy, state the policy number.

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26 INTERROGATORY NO. 26:

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1 Between January 1, 1991 and the present, was there in effect any policy of insurance through which
2 YOU were or might be insured in any manner (for example, primary, pro rata or excess liability coverage) for
3 the DAMAGES, claims or actions alleged in this action? If so, for each policy, state the nature and limits of
4 coverage for each type of coverage contained in the policy.

5 INTERROGATORY NO. 27:

6 Between January 1, 1991 and the present, was there in effect any policy of insurance through which
7 YOU were or might be insured in any manner (for example, primary, pro rata or excess liability coverage) for
8 the DAMAGES, claims or actions alleged in this action? If so, for each policy, state whether that insurance
9 carrier is disputing the agreements' coverage of any DAMAGES, claims or defenses alleged in this action. If
10 so, state the DAMAGES, claims or defenses so disputed.

11 INTERROGATORY NO. 28:

12 Do YOU have any policy of insurance issued between January 1, 1991 and the present which names
13 as an additional insured Homeowners Association, or Builders. A copy of the
14 certificate of insurance and any additional insured endorsement shall be deposited in the Document Depository.

15 INTERROGATORY NO. 29:

16 Do YOU contend any of the policies listed in your response to Interrogatory No. 22 do not insure as
17 an additional insured Homeowners Association or Builders or any
18 variation thereof?

19 INTERROGATORY NO. 30:

20 Do YOU contend YOU have complied with all insurance provisions of YOUR subcontract for
21 SERVICES done by YOU at the PROJECT?

22 INTERROGATORY NO. 31:

23 Have any payments been made under the insurance policies listed in response to Interrogatory No. 22
24 above that have been charged against the limitations of liability specified in the policy? If so, state the policy
25 and the amount of each payment.

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27 INTERROGATORY NO. 32:
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1 For all policies identified in Interrogatory No. 22 above, list the policy and the amount of remaining
2 coverage.

3 INTERROGATORY NO. 33:

4 Between January 1, 1991 and the present, was there in effect any policy of insurance through which
5 YOU were or might be insured in any manner (for example, primary, pro rata or excess liability coverage) for
6 the DAMAGES, claims or actions alleged in this action? If so, for each policy, state the name, address and
7 telephone number of the custodian of the policy.

8 INTERROGATORY NO. 34:

9 Are YOU self insured under any statute for the DAMAGES, claims or actions alleged in this action?
10 If so, specify the statute.

11 INTERROGATORY NO. 35:

12 For any and all policies named in the responses to the interrogatories, please state whether or not
13 coverage under the policy is broad form coverage.

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EXHIBIT "F"

RELEASE OF LIEN/CLAIMS

Contractor agrees, and expressly waives, any and all lien rights it may possess against Homeowners Association relative to any and all destructive testing work performed at Homeowners Association project during. (including repairs performed beyond this period). Contractor further agrees to hold harmless Homeowners Association for claims and services rendered and/or injuries sustained during the course of rendering such services. All repairs will be made to the satisfaction of the HOA and it's counsel of record.

Date: _____

By: _____
(signature)

For: _____
(Company Name)

Date: _____

By: _____
(signature)

For: _____
(Company Name)

1 **NAME OF ASSOCIATION**

2 **CASE MANAGEMENT ORDER TIME LINE**

3 <u>Date</u>	<u>Description of Item</u>
4 30 days from date CMO signed or first 5 appearance	All non-privileged documents to deposited
6 30 days from date CMO signed or first 7 appearance	Defendants/cross-defendants, response to insurance/scope of work interrogatories.
8 April 22 through April 26, 2002	All party visual inspections and Plaintiffs and Defendants joint invasive testing
9 May 15, 2002	Plaintiff's Preliminary Defect List/Statement of Claims due
10 June 3, 2002	Expert Witness exchange.
11 20 days after Initial Exchange	Supplemental expert witness exchange
12 June 1, 2002 through June 31, 2002	Plaintiff's presentation of defects and expert meeting
13 June 3, 2002	Last day to serve any party
14 June 3, 2002	Settlement Demands Issued to Cross- Defendants.
15 July 23, 2002	Service of plaintiff's final defect list.
16 August 23, 2002	Service of plaintiff's final cost of repair estimate.
17 August 2002	"Court Ordered Mandatory Settlement Conferences" to be arranged with the Referee
18 August 20, 2002 and August 21, 2002	"Court Ordered Mandatory Settlement Conferences"
19 September 6, 2002	Request for non-expert depositions, to be served by all parties
20 August, 2002	Meet and confer between Plaintiffs, Developer and cross-defendant liaison counsel to coordinate PMK and expert depositions.
21 September 25, 2002	"Court Ordered Mandatory Settlement Conference"
22 September, 2002	Initial Expert Deposition schedule to be served on all parties
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1	September 7, 2002 to September 11, 2002	Clean up invasive testing.
2	October, 2002	Expert and PMK depositions commence.
3	120 days before trial	Discovery Stay Lifted
4	30 days before trial	Discovery Cut-off
5	15 days before trial	Cut-off date for expert depositions
6	December 5, 2002	Final Status Conference
7	January 20, 2003	Trial Date

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