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5 Attorneys for Defendant/Cross-Defendant/Cross-Complainant
JELD-WEN, inc. dba SUMMIT WINDOW & PATIO DOOR (erroneously
6 sued herein as separate entities "SUMMIT WINDOW & PATIO DOOR"
and "Doe 3: Jeld-Wen, Inc. dba Summit Window & Patio Door")
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8
9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SANTA CLARA

11
12 CILKER APARTMENTS, LLC,

Case No. 1-13-CV-258281

13 Plaintiff,

14 v.

**JELD-WEN, INC.'S SPECIAL
INTERROGATORIES TO WESTERN
NATIONAL CONSTRUCTION**

15 WESTERN NATIONAL
CONSTRUCTION, et al.

(SET NUMBER ONE)

16 Defendants.
17 _____/

Judge: Hon. Peter H. Kirwan
Dept.: One (1)

18 AND ALL RELATED CROSS-ACTIONS.
19 _____/

20 PROPOUNDING PARTY: Defendant/Cross-Defendant/Cross-Complainant JELD-
WEN, inc. dba SUMMIT WINDOW & PATIO DOOR
21

22 RESPONDING PARTY: Defendant/Cross-Defendant/Cross-Complainant
WESTERN NATIONAL CONSTRUCTION
23

24 SET NUMBER: ONE (1)

25 TO DEFENDANT/CROSS-DEFENDANT/CROSS-COMPLAINANT WESTERN
26 NATIONAL CONSTRUCTION AND ITS ATTORNEY OF RECORD:

27 Pursuant to Section 2030.010, *et seq.* of the Code of Civil Procedure,
28 Defendant/Cross-Defendant/Cross-Complainant JELD-WEN, inc. dba SUMMIT

1 WINDOW & PATIO DOOR (hereinafter "JELD-WEN") requires that Cross-
2 Defendant/Cross-Complainant WESTERN NATIONAL CONSTRUCTION (hereinafter
3 "responding party" or "WESTERN") answer, under oath, within thirty (30) days, the
4 following Specially Prepared Interrogatories.

5 INSTRUCTIONS

6 In answering these interrogatories, you are required to furnish all information that
7 is available to or subject to your reasonable inquiry including information in the
8 possession of your attorneys, accountants, advisors, or other persons directly or
9 indirectly employed by, or connected with, you or your attorneys, and anyone else
10 otherwise subject to your control.

11 In answering these interrogatories, you must make a diligent search of your
12 records and of other papers and materials in your possession or available to you or your
13 representative. If an interrogatory has subparts, answer each part separately and in full,
14 and do not limit your answer to the interrogatory as a whole. If these interrogatories
15 cannot be answered in full, answer to the extent possible, specify the reason for your
16 inability to answer the remainder, and state whatever information and knowledge you
17 have regarding the unanswered portion. With respect to each interrogatory, in addition
18 to supplying the information asked for and identifying the specific documents referred
19 to, identify and describe all documents and records to which you refer in preparing your
20 answers. The interrogatories are continuing and the answers thereto must be
21 supplemented to the maximum extent authorized by law and applicable rules.

22 DEFINITIONS

23 Unless otherwise indicated, the following definitions shall be applicable to these
24 interrogatories:

25 A. "Person" shall mean and include a natural person, partnership, firm or
26 corporation or any other kind of business or legal entity, its agents or employees. In
27 each instance where you are asked to "identify" a person, or the answer to the
28 interrogatory refers to a person, state with respect to each such person:

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- (1) His name;
- (2) His last known residence, business address and telephone number;
- (3) His company affiliation at the date of the transaction referred to;
- (4) His title and duties in the company with which he was affiliated;
- (5) The male gender includes the female and the singular pronoun includes the plural.

B. The words "Document" and "Documents" mean all written, recorded, or graphic matters, however produced or reproduced, whether or not privileged, pertaining in any way to the subject matter of the action. This definition includes, but is not limited to, any and all originals, copies, or drafts, or any and all of the following: Records, notes, summaries, schedules, contracts or agreements, drawings, sketches, invoices, orders or acknowledgments, diaries, reports, forecasts, or appraisals; memoranda of telephone or in person conversations by or with any person, or any other memoranda; letters, telephone telexes or cables prepared, drafted, received or sent; tapes, transcripts or recordings; photographs, pictures or files; computer programs or data or other graphic symbolic, recorded or written materials of any nature whatsoever. Any documents which contain any comments, notations, additions, insertions or markings of any kind which are not part of another document or a document which does not contain any comment, notation, addition, insertion, or marking of any kind which is part of another document.

C. In each instance where you are asked to "identify" or describe a document, your description should be sufficient to satisfy the requirements of Code of Civil Procedure Section 2031.030(c)(1) and should include, but not be limited to:

- (1) The names, address, telephone number, occupation, job title and employer of the present custodian of the document;
- (2) The fact or facts which would tend to be established by the introduction into evidence of each such document;

- 1 (3) The date of the making of the document and the name, address
2 and employer of the present custodian of the document;
3 (4) The date of the making of the document and the name, address,
4 telephone number, occupation, job title and employer of the person
5 whose testimony could be used to authenticate such document
6 and lay the foundation for its introduction into evidence.

7 D. The term "YOU" and "YOUR" shall refer to Defendant/Cross-
8 Defendant/Cross-Complainant WESTERN NATIONAL CONSTRUCTION and its
9 principals and employees, counsel, agents, consultants, experts, investigators or other
10 persons acting on its behalf.

11 E. The term "PLANS" shall refer to the construction plans Bates stamped
12 MVP9983 - MVP10110.

13 F. The term "SPECIFICATIONS" shall refer to those construction
14 specifications, Bates stamped WNC070343 - WNC070352.

15 G. The term "MILCOR TRIM" shall refer to a lath trim which is a window or
16 sliding glass patio door accessory used to terminate plaster or stucco, also commonly
17 known as a "J-mold" or "stucco key."

18 H. The term "SUBJECT PROPERTY" shall refer to the One Pearl Place
19 Apartments located on Terner Way in San Jose, California, which is the subject of this
20 instant litigation.

21 **SPECIAL INTERROGATORIES**

22 **SPECIAL INTERROGATORY NO. 1:**

23 Did JELD-WEN install any windows at the **SUBJECT PROPERTY**?

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25 **SPECIAL INTERROGATORY NO. 2:**

26 If your Response to Special Interrogatory No. 1 is anything but an unqualified
27 "no," state all facts which support **YOUR** response to Special Interrogatory No. 1.

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SPECIAL INTERROGATORY NO. 3:

Did JELD-WEN install any sliding glass patio doors at the **SUBJECT PROPERTY?**

SPECIAL INTERROGATORY NO. 4:

If your Response to Special Interrogatory No. 3 is anything but an unqualified "no," state all facts which support **YOUR** response to Special Interrogatory No. 3.

SPECIAL INTERROGATORY NO. 5:

Do **YOU** contend the **PLANS** call for the window products to contain a **MILCOR TRIM** accessory?

SPECIAL INTERROGATORY NO. 6:

If your Response to Special Interrogatory No. 5 is anything but an unqualified "no," state all facts which support **YOUR** response to Special Interrogatory No. 5.

SPECIAL INTERROGATORY NO. 7:

Do **YOU** contend the **SPECIFICATIONS** call for the window products to contain a **MILCOR TRIM** accessory?

SPECIAL INTERROGATORY NO. 8:

If your Response to Special Interrogatory No. 7 is anything but an unqualified "no," state all facts which support **YOUR** response to Special Interrogatory No. 7.

SPECIAL INTERROGATORY NO. 9:

Do **YOU** contend the **PLANS** call for the sliding glass patio door products to contain a **MILCOR TRIM** accessory?

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SPECIAL INTERROGATORY NO. 10:

If your Response to Special Interrogatory No. 9 is anything but an unqualified "no," state all facts which support **YOUR** response to Special Interrogatory No. 9.

SPECIAL INTERROGATORY NO. 11:

Do **YOU** contend the **SPECIFICATIONS** call for the sliding glass patio door products to contain a METAL LATH MILCOR accessory?

SPECIAL INTERROGATORY NO. 12:

If your Response to Special Interrogatory No. 11 is anything but an unqualified "no," state all facts which support **YOUR** response to Special Interrogatory No. 11.

SPECIAL INTERROGATORY NO. 13:

Did **YOU** provide notice to JELD-WEN of its purported breach of warranty prior to initiating this lawsuit?

SPECIAL INTERROGATORY NO. 14:

If your Response to Special Interrogatory No. 13 is anything but an unqualified "no," state all facts which support **YOUR** response to Special Interrogatory No. 13.

SPECIAL INTERROGATORY NO. 15:

Did **YOU** approve and authorize the windows supplied by JELD-WEN and installed by others at the **SUBJECT PROPERTY** to be vinyl rather than aluminum?

SPECIAL INTERROGATORY NO. 16:

State all facts which support **YOUR** response to Special Interrogatory No. 15.

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SPECIAL INTERROGATORY NO. 17:

Did **YOU** approve and authorize the sliding glass patio doors supplied by JELD-WEN and installed by others at the **SUBJECT PROPERTY** to be vinyl rather than aluminum?

SPECIAL INTERROGATORY NO. 18:

State all facts which support **YOUR** response to Special Interrogatory No. 17.

SPECIAL INTERROGATORY NO. 19:

Identify all documents relating to FITCH PLASTERING, INC.'s work regarding the installation of **MILCOR TRIM** at the **SUBJECT PROPERTY**.

DATED: January 28, 2016

THE SIEVING LAW FIRM, A.P.C.

By: /s/ Luke G. Pears-Dickson
LUKE G. PEARS-DICKSON
Attorney for Defendant/Cross-Defendant/Cross-Complainant
JELD-WEN, inc., dba SUMMIT WINDOW & PATIO DOOR (erroneously sued herein as separate entities "SUMMIT WINDOW & PATIO DOOR" and "Doe 3: Jeld-Wen, Inc. dba Summit Window & Patio Door")