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7 Attorneys for WESTERN NATIONAL
CONSTRUCTION

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SANTA CLARA**

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13 CILKER APARTMENTS, LLC,

14 Plaintiff,

15 vs.

16 WESTERN NATIONAL CONSTRUCTION,
et al.,

17 Defendants.

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19 AND RELATED CROSS-ACTIONS

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CASE NO. 113CV258281

**NOTICE OF TAKING DEPOSITION OF
ALEXANDER JOHNSON AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

JUDGE: Hon. Peter H. Kirwan
DEPT.: 1
ACTION FILED: December 26, 2013
TRIAL DATE: June 13, 2016

DATE: May 10, 2016
TIME: 10:00 AM
PLACE: Aiken Welch
111 N. Market Street
Suite 300
San Jose, CA

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

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PLEASE TAKE NOTICE that, pursuant to California *Code of Civil Procedure* section
24 2025.230 *et seq.*, and the Case Management Order in this action, Defendant and Cross-
25 Complainant Western National Construction ("Western") by and through its attorneys, will take
26 the deposition of Alexander Johnson at Aiken Welch, 111 N. Market Street, Suite 300, San Jose,
27 California, at 10:00 a.m., on May 10, 2016, and continuing day to day, except for Saturdays,
28 Sundays and holidays, until completed.

1 The deposition shall be taken before a duly certified shorthand reporter and authorized to
2 administer oaths in the State of California. Furthermore, and pursuant to California *Code of Civil*
3 *Procedure* section 2025.220(a)(5), the deposition may be recorded by video technology and may
4 also be recorded through such means as to provide the instant visual display of testimony.

5 If a translator is required for this deposition, Deponent shall notify this noticing party of
6 that fact and the language required at least seven (7) days prior to the date set for the deposition.

7 DEFINITIONS FOR CATEGORIES OF TESTIMONY

8 The term “YOU” and “YOUR” shall mean Alexander Johnson, and any of the Don L.
9 Beck Associates, Inc.'s agents, employees, contractors, officers, shareholders, directors, owners,
10 attorneys, representatives and all others acting for YOU and/or on YOUR behalf.

11 The term “PROPERTY” shall mean: One Pearl Place Apartments; APN 458-11-016; 5210
12 Turner Way, San Jose, California; 5220 Turner Way, San Jose, California; and 5230 Turner Way,
13 San Jose, California.

14 CATEGORIES OF TESTIMONY

15 YOU will be requested to testify regarding the plans, inspection, testing of the
16 PROPERTY.

17 DEFINITIONS FOR DOCUMENT PRODUCTION

18 "DOCUMENTS" as used herein shall have the same meaning as "writing" as defined in
19 Evidence Code Section 250, which means handwriting, typewriting, printing, photostating,
20 photographing, photocopying, transmitting by electronic mail or facsimile, and other means of
21 recording upon any tangible thing, and form of communication or representation, including letters,
22 words, pictures, sounds or symbols, or combinations thereof, and any record thereby created,
23 regardless of the manner in which the record has been stored.

24 The term “PROPERTY” shall mean: One Pearl Place Apartments; APN 458-11-016; 5210
25 Turner Way, San Jose, California; 5220 Turner Way, San Jose, California; and 5230 Turner Way,
26 San Jose, California.

27 DOCUMENTS TO BE PRODUCED

28 1. Any and all DOCUMENTS concerning, referencing, or relating to the

1 PROPERTY.

2 2. Any and all DOCUMENTS relating to inspection or testing conducted at the
3 PROPERTY, including reports, data, photographs and notes.

4 3. Any and all DOCUMENTS received by YOU concerning, referring to or relating to
5 the PROPERTY.

6 4. Any and all DOCUMENTS sent by YOU concerning, referring to or relating to the
7 PROPERTY.

8 5. Your entire file for the PROPERTY.

9 6. Any and all DOCUMENTS concerning or referring to design drawings and plans
10 for the PROPERTY, including, but not limited to the following drawings, details and plan sheets,
11 civil, geotechnical, grading, architectural, structural, electrical, drainage, landscaping, irrigation,
12 utilities, sewer and storm drain.

13 7. Any and all DOCUMENTS exchanged between, submitted by, provided from, or
14 provided to any governmental agency, department or division and any party or person working,
15 controlling, developing, designing, inspecting, maintaining, construction or repairing any portion
16 of the PROPERTY.

17 8. Any and all DOCUMENTS concerning plan checks at the PROPERTY, including
18 but not limited to standard plan check correction lists, special correction lists, and any
19 correspondence, reports or notes regarding, concerning or relating to any plan checks.

20 9. Any and all DOCUMENTS concerning permits or inspections at the PROPERTY,
21 including but not limited to, permit requests, permit applications, plan check applications and
22 approvals, records of fees paid, inspection records or jobsite cards, correction notices, stop work
23 notices, notes and communications to or from the inspectors or other building officials relating to
24 the inspections or compliance with any governing authority or regulations.

25 10. All DOCUMENTS concerning or related to required certificates from design
26 professionals relating to design compliance at the PROPERTY.

27 11. All DOCUMENTS concerning or relating to any variances or occupancy permits at
28 the PROPERTY, including but not limited to requests for variances, approvals and/or any

1 correspondence, reports or notes regarding variances and occupancy permits and certificates of
2 occupancy.

3 12. All DOCUMENTS related, concerning or referencing any repair, maintenance or
4 remediation at the PROPERTY from January 1, 2004 to the present.

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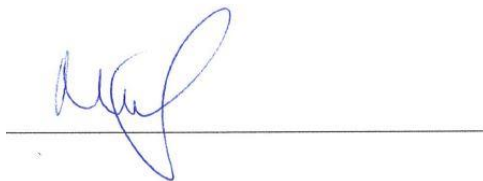
6 Dated: April 12, 2016

GREEN & HALL, APC

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Michael A. Erlinger
Attorneys for WESTERN NATIONAL
CONSTRUCTION

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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 1851 East First Street, 10th Floor, Santa Ana, CA 92705-4052.

On April 12, 2016, I served the within document(s) described as:

WESTERN NATIONAL CONSTRUCTION'S NOTICE OF TAKING DEPOSITION OF ALEXANDER JOHNSON AND REQUEST FOR PRODUCTION OF DOCUMENTS

on each interested party in this action as stated below:

BY E-SERVICE: I electronically served the document(s) via Santa Clara County Superior Court's Electronic Filing System on the recipients designated on the transaction receipt located on the Santa Clara County Superior Court's Electronic Filing System website. *[See Transaction Receipt on SCE Filing Website]*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 12, 2016, at Santa Ana, California.



Sheila Ellis

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael A. Erlinger Samuel M. Danskin (SBN 136044) Michael A. Erlinger (SBN 216877) 1851 E. First Street, 10th Floor Santa Ana, CA 92705 TELEPHONE NO.: (714)918-7000 FAX NO. (Optional): (714)918-6996 E-MAIL ADDRESS (Optional): sdanskin@greenhall.com; merlinger@greenhall.com ATTORNEY FOR (Name): WESTERN NATIONAL CONSTRUCTION	FOR COURT USE ONLY CASE NUMBER: 113CV258281
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 N 1st St. MAILING ADDRESS: (same) CITY AND ZIP CODE: San Jose, California 95113 BRANCH NAME: SANTA CLARA DOWNTOWN SUPERIOR COURT	
PLAINTIFF/PETITIONER: CILKER APARTMENTS, LLC DEFENDANT/RESPONDENT: WESTERN NATIONAL CONSTRUCTION, et	
DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
 Alexander Johnson, 386 Monterey Place, Los Altos CA 94022
 (650) 949-2143


1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date: 5/10/16	Time: 10:00 AM	Address: Aiken Welch: 111 N. Market St., Ste 300 San Jose CA 95113
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- a. As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 4. (Code Civ. Proc., § 2025.230.)
 - b. You are ordered to produce the documents and things described in item 3.
 - c. This deposition will be recorded stenographically through the instant visual display of testimony and by audiotape videotape.
 - d. This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).
2. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
3. The documents and things to be produced and any testing or sampling being sought are described as follows:
 See Attachment 3
- Continued on Attachment 3.
4. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows: See Attachment 4
- Continued on Attachment 4.
5. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**
6. *At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition; later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, at the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition. Unless the court orders or you agree otherwise, if you are being deposed as an individual, the deposition must take place within 75 miles of your residence or within 150 miles of your residence if the deposition will be taken within the county of the court where the action is pending. The location of the deposition for all deponents is governed by Code of Civil Procedure section 2025.250.*

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: April 12, 2016



 Attorneys for Western National Construc

Michael A. Erlinger (TYPE OR PRINT NAME) (Proof of service on reverse) (TITLE) Page 1 of 2

PLAINTIFF/PETITIONER: CILKER APARTMENTS, LLC	CASE NUMBER:
DEFENDANT/RESPONDENT: WESTERN NATIONAL CONSTRUCTION, et	113CV258281

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS

1. I served this *Deposition Subpoena for Personal Appearance and Production of Documents and Things* by personally delivering a copy to the person served as follows:

- a. Person served (*name*):
- b. Address where served:
- c. Date of delivery:
- d. Time of delivery:
- e. Witness fees and mileage both ways (*check one*):
 - (1) were paid. Amount: \$ 0.00
 - (2) were not paid.
 - (3) were tendered to the witness's public entity employer as required by Government Code section 68097.2. The amount tendered was (*specify*): \$ 0.00
- f. Fee for service: \$ 0.00

2. I received this subpoena for service on (*date*):

3. Person serving:

- a. Not a registered California process server
- b. California sheriff or marshal
- c. Registered California process server
- d. Employee or independent contractor of a registered California process server
- e. Exempt from registration under Business and Professions Code section 22350(b)
- f. Registered professional photocopier
- g. Exempt from registration under Business and Professions Code section 22451
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

Date:

 (SIGNATURE)

 (SIGNATURE)

Attachment 3

DEFINITIONS

“DOCUMENTS” as used herein shall have the same meaning as “writing” as defined in Evidence Code Section 250, which means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

The term “YOU” and “YOUR” shall mean ALEXANDER JOHNSON, the person/entity responding to this Deposition Subpoena, and any of the Don L. Beck Associates, Inc.'s agents, employees, contractors, officers, shareholders, directors, owners, attorneys, representatives and all others acting for it and/or on its behalf.

The term “PROPERTY” shall mean: One Pearl Place Apartments; APN 458-11-016; 5210 Terner Way, San Jose; 5220 Terner Way, San Jose; 5230 Terner Way, San Jose

DOCUMENTS TO BE PRODUCED

1. Any and all DOCUMENTS concerning, referencing or relating to the PROPERTY.
2. Any and all DOCUMENTS relating to inspection or testing conducted at the PROPERTY, including reports, data, photographs and notes.
3. Any and all DOCUMENTS received by YOU concerning, referring to or relating to the PROPERTY.
4. Any and all DOCUMENTS sent by YOU concerning, referring to or relating to the PROPERTY.
5. Your entire file for the PROPERTY.
6. Any and all DOCUMENTS concerning or referring to design drawings and plans for the PROPERTY, including, but not limited to the following drawings, details and plan sheets: civil, geotechnical, grading, architectural, structural, electrical, drainage, landscaping, irrigation, utilities, sewer and storm drain.
7. Any and all DOCUMENTS exchanged between, submitted by, provided from, or provided to any governmental agency, department or division and any party or person working, controlling, developing, designing, inspecting, maintaining, constructing or repairing any portion of the PROPERTY.

8. Any and all DOCUMENTS concerning plan checks at the PROPERTY, including but not limited to standard plan check correction lists, special correction lists, and any correspondence, reports or notes regarding, concerning or relating to any plan checks.
9. Any and all DOCUMENTS concerning permits or inspections at the PROPERTY, including but not limited to, permit requests, permit applications, plan check applications and approvals, records of fees paid, inspection records or jobsite cards, correction notices, stop work notices, notes and communications to or from the inspectors or other building officials relating to the inspections or compliance with any governing authority or regulations.
10. All DOCUMENTS concerning or relating to required certificates from design professionals relating to design compliance at the PROPERTY.
11. All DOCUMENTS concerning or relating to any variances or occupancy permits at the PROPERTY, including but not limited to requests for variances, approvals and/or any correspondence, reports or notes regarding variances and occupancy permits and certificates of occupancy.
12. All DOCUMENTS related, concerning or referencing any repair, maintenance or remediation at the PROPERTY from January 1, 2004 to the present.

Cilker Apartments, LLC v. Western National Construction Corp.
Attachment 4

DEFINITIONS

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The term “PROPERTY” shall mean:

- One Pearl Place Apartments
- APN 458-11-016
- 5210 Turner Way, San Jose CA
- 5220 Turner Way, San Jose CA
- 5230 Turner Way, San Jose CA

CATEGORIES OF TESTIMONY

YOU will be requested to testify regarding the plans, inspection, testing of the PROPERTY.