EXHIBIT “A”
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

CILKER APARTMENTS, LLC,

Plaintiff,

vs.

WESTERN NATIONAL CONSTRUCTION, MCLARLAND, VARQUEZ & PARTNERS, INC., GROUP M ENGINEERS, GENTRY ASSOCIATES CONSTRUCTION CONSULTANTS, LARCO INDUSTRIES, FITCH PLASTERING, COURTNEY WATERPROOFING, CELL CRETE, LOS NIETOS CONSTRUCTION, MADERA FRAMING, KELLY DOOR, TARA COATINGS, LDI, ADM PAINTING, ALLIANCE BUILDING PRODUCT, JOS. J. ALBANESE, ANDERSON TRUSS, CALIFORNIA CLASSIC PAVERS, CASEY-FOGIL CONCRETE CONTRACTORS, CENTRAL COAST STAIRS, COMMERCIAL ROOF MANAGEMENT, DAVEY ROOFING, INC., DEMETRIS PAINTING II, INC., DOORWAY MFG., LANDSCAPE PROS, MULTI-BUILDING STRUCTURES, PARK WEST, PYRAMID BUILDERS, ROECKS WELDING & FABRICATION, RYLOCK COMPANY, SUMMIT WINDOW & PATIO DOOR, VANGUARD and DOES 1-100, inclusive,

Defendants.

FIRST AMENDED COMPLAINT FOR DAMAGES
COMES NOW Plaintiff CILKER APARTMENTS, LLC and for causes of action against Defendants, and each of them, complain and allege as follows:

1. Plaintiff CILKER APARTMENTS, LLC (“Plaintiff”) is a limited liability company operating in the County of Santa Clara and is the owner of the real property and improvements commonly known as One Pearl Place Apartments, One Pearl Place, San Jose, California (hereinafter the “PROPERTY” or the "PROJECT"), which consists of approximately 182 residential units and other improvements.

2. Plaintiff is informed and believes, and based thereon alleges that at all times herein mentioned, Defendant WESTERN NATIONAL CONSTRUCTION (hereinafter “WNC”) was a California Corporation based in Orange County, but doing business in the County of Santa Clara, California. Plaintiff entered into a written agreement with WNC pertaining to the construction of the PROJECT.

3. Plaintiff is informed and believes, and based upon thereon alleges that at all times herein mentioned, Defendant MCLARLAND, VARQUEZ & PARTNERS, INC. (hereinafter “MV & P”) whose true business form and entity is unknown, was an architectural firm doing business in the County of Santa Clara, California. Plaintiff entered into a written agreement with MV & P pertaining to the design and construction of the PROJECT.

4. Plaintiff is informed and believes, and based upon thereon alleges that at all times herein mentioned, Defendant GROUP M ENGINEERS (hereinafter “GROUP M”), whose true business form and entity is unknown, was an engineering firm doing business in the County of Santa Clara, California.

5. Plaintiff is informed and believes, and based upon thereon alleges that at all times herein mentioned, Defendant GENTRY ASSOCIATES CONSTRUCTION CONSULTANTS (“GENTRY”) whose true business form and entity is unknown, was doing business in the County of Santa Clara, California. Plaintiff entered into a written agreement with GENTRY pertaining to the design and construction of the PROJECT.

6. Plaintiff is informed and believes, and based upon thereon alleges that at all times herein mentioned, Defendant LARCO INDUSTRIES (“LARCO”) whose true business form and
entity is unknown, was doing business in the County of Santa Clara, California. WNC entered
into a written subcontract agreement with LARCO pertaining to the construction of the PROJECT
on behalf of Plaintiff. In said written subcontract agreement, said subcontractor agreed to, for due
consideration, to defend, indemnify and save Plaintiff harmless to the fullest extent possible under
the law from and against any and all loss, damages, liability, claims, demands, costs, and expenses
of any kind, including attorneys' fees and expert fees, arising out of or in any manner directly or
indirectly connected with the PROJECT.

7. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant FITCH PLASTERING ("FITCH") was a California Corporation,
doing business in the County of Santa Clara, California. WNC entered into a written subcontract
agreement with FITCH pertaining to the construction of the PROJECT on behalf of Plaintiff. In
said written subcontract agreement, said subcontractor agreed to, for due consideration, to defend,
indemnify and save Plaintiff harmless to the fullest extent possible under the law from and against
any and all loss, damages, liability, claims, demands, costs, and expenses of any kind, including
attorneys' fees and expert fees, arising out of or in any manner directly or indirectly connected
with the PROJECT.

8. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant COURTNEY WATERPROOFING ("COURTNEY") was a
California Corporation, doing business in the County of Santa Clara, California. WNC entered
into a written subcontract agreement with COURTNEY pertaining to the construction of the
PROJECT on behalf of Plaintiff. In said written subcontract agreement, said subcontractor agreed
to, for due consideration, to defend, indemnify and save Plaintiff harmless to the fullest extent
possible under the law from and against any and all loss, damages, liability, claims, demands,
costs, and expenses of any kind, including attorneys' fees and expert fees, arising out of or in any
manner directly or indirectly connected with the PROJECT.

9. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant CELL CRETE was a California Corporation, doing business in the
County of Santa Clara, California. WNC entered into a written subcontract agreement with
CELL CRETE pertaining to the construction of the PROJECT on behalf of Plaintiff. In said
written subcontract agreement, said subcontractor agreed to, for due consideration, to defend,
indemnify and save Plaintiff harmless to the fullest extent possible under the law from and against
any and all loss, damages, liability, claims, demands, costs, and expenses of any kind, including
attorneys' fees and expert fees, arising out of or in any manner directly or indirectly connected
with the PROJECT.

10. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant LOS NIETOS CONSTRUCTION ("LOS NIETOS") whose true
business form and entity is unknown, was doing business in the County of Santa Clara, California.
WNC entered into a written subcontract agreement with LOS NIETOS pertaining to the
construction of the PROJECT on behalf of Plaintiff. In said written subcontract agreement, said
subcontractor agreed to, for due consideration, to defend, indemnify and save Plaintiff harmless to
the fullest extent possible under the law from and against any and all loss, damages, liability,
claims, demands, costs, and expenses of any kind, including attorneys' fees and expert fees, arising
out of or in any manner directly or indirectly connected with the PROJECT.

11. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant MADERA FRAMING ("MADERA") whose true business form and
entity is unknown, was doing business in the County of Santa Clara, California. WNC entered
into a written subcontract agreement with MADERA pertaining to the construction of the
PROJECT on behalf of Plaintiff. In said written subcontract agreement, said subcontractor agreed
to, for due consideration, to defend, indemnify and save Plaintiff harmless to the fullest extent
possible under the law from and against any and all loss, damages, liability, claims, demands,
costs, and expenses of any kind, including attorneys' fees and expert fees, arising out of or in any
manner directly or indirectly connected with the PROJECT.

12. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant KELLY DOOR whose true business form and entity is unknown,
was doing business in the County of Santa Clara, California. WNC entered into a written
subcontract agreement with KELLY DOOR pertaining to the construction of the PROJECT on
behalf of Plaintiff. In said written subcontract agreement, said subcontractor agreed to, for due
correction, to defend, indemnify and save Plaintiff harmless to the fullest extent possible under
the law from and against any and all loss, damages, liability, claims, demands, costs, and expenses
of any kind, including attorneys’ fees and expert fees, arising out of or in any manner directly or
indirectly connected with the PROJECT.

13. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant TARA COATINGS ("TARA") whose true business form and entity
is unknown, was doing business in the County of Santa Clara, California. WNC entered into a
written subcontract agreement with TARA pertaining to the construction of the PROJECT on
behalf of Plaintiff. In said written subcontract agreement, said subcontractor agreed to, for due
consideration, to defend, indemnify and save Plaintiff harmless to the fullest extent possible under
the law from and against any and all loss, damages, liability, claims, demands, costs, and expenses
of any kind, including attorneys’ fees and expert fees, arising out of or in any manner directly or
indirectly connected with the PROJECT.

14. Plaintiff is informed and believes, and based upon thereon alleges that at all times
herein mentioned, Defendant LDI whose true business form and entity is unknown, was doing
business in the County of Santa Clara, California. WNC entered into a written subcontract
agreement with LDI pertaining to the construction of the PROJECT on behalf of Plaintiff. In said
written subcontract agreement, said subcontractor agreed to, for due consideration, to defend,
indemnify and save Plaintiff harmless to the fullest extent possible under the law from and against
any and all loss, damages, liability, claims, demands, costs, and expenses of any kind, including
attorneys’ fees and expert fees, arising out of or in any manner directly or indirectly connected
with the PROJECT.

15. On or about January 24, 2014, Plaintiff caused to be filed in the Santa Clara
Superior Court “Plaintiff Cilker Apartments, LLC’s First Doe Amendment To Complaint For
Damages” identifying an additional nineteen (19) defendants, then designated as DOE’s 1-19, as
follows:

FIRST AMENDED COMPLAINT FOR DAMAGES
<table>
<thead>
<tr>
<th>Fictitious Name</th>
<th>True Name</th>
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<tbody>
<tr>
<td>Doe 1</td>
<td>ADM PAINTING</td>
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<tr>
<td>Doe 2</td>
<td>ALLIANCE BUILDING PRODUCT</td>
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<tr>
<td>Doe 3</td>
<td>JOS. J. ALBANESE</td>
</tr>
<tr>
<td>Doe 4</td>
<td>ANDERSON TRUSS</td>
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<tr>
<td>Doe 5</td>
<td>CALIFORNIA CLASSIC PAVERS</td>
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<tr>
<td>Doe 6</td>
<td>CASEY-FOGIL CONCRETE CONTRACTORS</td>
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<td>Doe 7</td>
<td>CENTRAL COAST STAIRS</td>
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<tr>
<td>Doe 8</td>
<td>COMMERCIAL ROOF MANAGEMENT</td>
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<td>Doe 9</td>
<td>DAVEY ROOFING, INC.</td>
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<td>Doe 10</td>
<td>DEMETRIS PAINTING II, INC.</td>
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<td>Doe 11</td>
<td>DOORWAY MFG.</td>
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<td>Doe 12</td>
<td>LANDSCAPE PROS</td>
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<td>Doe 13</td>
<td>MULTI-BUILDING STRUCTURES</td>
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<td>Doe 14</td>
<td>PARK WEST</td>
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<td>Doe 15</td>
<td>PYRAMID BUILDERS</td>
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<td>Doe 16</td>
<td>ROBECKS WELDING &amp; FABRICATION</td>
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<td>Doe 17</td>
<td>RYLOCK COMPANY</td>
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<td>Doe 18</td>
<td>SUMMIT WINDOW &amp; PATIO DOOR</td>
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<tr>
<td>Doe 19</td>
<td>VANGUARD</td>
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</table>

16. Defendants, ADM PAINTING, ALLIANCE BUILDING PRODUCT, JOS. J. ALBANESE, ANDERSON TRUSS, CALIFORNIA CLASSIC PAVERS, CASEY-FOGIL CONCRETE CONTRACTORS, CENTRAL COAST STAIRS, COMMERCIAL ROOF MANAGEMENT, DAVEY ROOFING, INC., DEMETRIS PAINTING II, INC., DOORWAY MFG., LANDSCAPE PROS, MULTI-BUILDING STRUCTURES, PARK WEST, PYRAMID BUILDERS, ROBECKS WELDING & FABRICATION, RYLOCK COMPANY, SUMMIT WINDOW & PATIO DOOR and VANGUARD, previously named as Doe Defendants 1-19, are named as Defendants herein in the caption of this First Amended Complaint. Each named
defendant was involved in the construction of the PROJECT, and provided design, labor and/or materials to the PROJECT for this purpose. Each of these Defendants entered into a written subcontract agreement with WNC on behalf of Plaintiff pertaining to the PROJECT. In said written subcontract agreement and for due consideration, said subcontractors agreed to (among other commitments) defend, indemnify and save Plaintiff harmless to the fullest extent possible under the law from and against any and all loss, damages, liability, claims, demands, costs, and expenses of any kind, including attorneys' fees and expert fees, arising out of or in any manner directly or indirectly connected with the PROJECT.

17. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1-100, and therefore sues said Defendants by these fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is in some manner responsible for the injury and damage to Plaintiff alleged herein.

18. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendants were the agents, servants and employees of their co-defendants and in doing the things hereinafter mentioned, were acting in the course and scope of their authority as agents, servants, and employees with the permission and consent of their co-defendants.

19. In or about July 1, 2000, Plaintiff entered into a written contract with WNC to construct the subject apartment PROJECT. The PROJECT began sometime after execution of the written contract and continued until all work was completed in or about 2004.

20. Plaintiff is informed and believes, and based upon thereon alleges that Defendants identified in paragraphs 5 through 16 above were subcontractors or others who performed construction or design work on the PROJECT.

21. Within the one year prior to the filing of this complaint Plaintiff discovered construction defects at the PROJECT in areas where each of the defendants set forth herein performed work, labor, design or architectural services. The areas impacted by defects include, but are not limited to:

a. Exterior decks;
b. Exterior walkways;

c. Breezeways;

d. Elevated Courtyards and pathways;

e. planters

f. Structural Components

g. Doors, doorways and door thresholds;

h. Concrete;

i. Stucco and exterior building elevations;

j. Wood framing;

k. Waterproofing;

l. Windows;

m. Railings;

n. Roofing;

o. Plumbing/storm drainage;

p. Sheet metal flashings

q. Mechanical/flashing; and,

r. Miscellaneous steel and structural steel.

22. The nature of the defects are such that they were not reasonably apparent or
discoverable by Plaintiff until within the statutory period. Investigation of the full nature and
extent of the defects is continuing.

FIRST CAUSE OF ACTION

[Breach of Contract Against All Defendants and DOES 1-100)

23. Plaintiff refers to the allegations in the preceding paragraphs and incorporates
them herein by reference as though set forth in full.

24. The Contract utilized by Plaintiff and Defendant WNC contained an express
agreement to complete the PROJECT in a good and workmanlike manner and in legal compliance.
The same was true for all subcontracts between WNC and each of its subcontractors each of which
identifies Plaintiff as an intended third party beneficiary. The subcontracts for each of the
remaining subcontract defendants incorporated these agreements and provisions and/or expressly
set forth said agreements and provisions.

25. The Contract utilized by Plaintiff and Defendant MV&P contained an express
agreement to design and manage the PROJECT in a good and workmanlike manner and in legal
compliance.

26. The Contract utilized by Plaintiff and Defendant GROUP M contained an express
agreement to design and manage the PROJECT in a good and workmanlike manner and in legal
compliance.

27. The Contracts were breached by Defendants by virtue of the existence of and
various latent construction deficiencies as described inter alia in Code of Civil Procedure sections
337.15.

28. Plaintiff has performed all acts, conditions and covenants required by the Contracts,
except as excused by the acts or omissions of Defendants, and each of them.

29. As a direct and proximate result of the breach by Defendants, Plaintiff has suffered
damages, which includes but is not limited to: Being required to seek the employ of design
professionals and contractors to perform repair/remediation work on the PROJECT; denial of the
use and rent of the PROJECT; being required to seek the employ of a forensic construction
consultant to investigate the construction defects on the PROJECT in order to establish the
defective construction practices in the construction of the PROJECT and the incurrence of
attorney’s fees and costs, which are ongoing.

30. The Contracts between Plaintiff and Defendants, and each of them, contained a
provision allowing the prevailing party in any proceeding arising out of the agreement to recover
their reasonable attorneys fees and costs.

31. As a proximate result of Defendants' breach of contract as set forth above, Plaintiff
has suffered damages in an amount exceeding the minimal jurisdictional amount of this Court to
be shown according to proof at trial but including, and not limited to, the cost of repairing and
replacing the defective materials and workmanship, testing and investigation of such defective
materials and workmanship, lost rents and income, diminution of fair market value, and legal and professional costs, as well as other incidental and consequential damages.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

SECOND CAUSE OF ACTION

[Breach of Implied Warranty Against All Defendants and DOES 1-100, Not including Professional Entity Defendants]

32. Plaintiff refers to the allegations in the preceding paragraphs and incorporates them herein by reference as though set forth in full.

33. Defendants, and each of them, impliedly warranted that the PROJECT would be constructed in a skillful manner so as to be reasonably fit for its intended purpose as an apartment complex.

34. Plaintiff relied on this implied warranty and believed in good faith that the PROJECT was of merchantable quality.

35. In or about December 2013, Plaintiff first learned that the PROJECT was not properly constructed when notified by a forensic construction consultant of its analysis of the PROJECT.

36. Defendants breached the implied warranty in that the PROJECT was constructed with construction defects including, but not limited to, those defects as set forth in Paragraph 21 above. The discovered defects have resulted in consequential property damage which needs to be repaired.

37. As a proximate result of Defendants' breach of warranty as set forth above, Plaintiff has suffered damages in an amount exceeding the minimal jurisdictional amount of this Court to be shown according to proof at trial but including, and not limited to, the cost of repairing and replacing the defective materials and workmanship, testing and investigation of such defective materials and workmanship, lost rents and income, diminution of fair market value, and legal and professional costs, as well as other incidental and consequential damages.
38. Plaintiff has given notice to Defendants of the defects in construction as determined to date by Plaintiff's forensic construction consultant.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

THIRD CAUSE OF ACTION

[Breach of Express Warranty Against All Defendants and DOES 1-100, Not including Professional Entity Defendants]

39. Plaintiff refers to the allegations in the preceding paragraphs and incorporates them herein by reference as though set forth in full.

40. Defendants expressly warranted that the PROJECT they constructed would be free from defects.

41. Plaintiff relied on this express warranty and believed in good faith that the PROJECT would be free from defects.

42. In or about December 2013, when Plaintiff was notified of the forensic consultant's initial analysis of the work done on the PROJECT, Plaintiff learned that the PROJECT had not been properly constructed.

43. Defendants breached the express warranty as the PROJECT was constructed with construction defects including, but not limited to, those defects as set forth in Paragraph 21 above.

The discovered defects have resulted in consequential property damage which needs to be repaired.

44. As a proximate result of Defendants' breach of warranty as set forth above, Plaintiff has suffered damages in an amount exceeding the minimal jurisdictional amount of this Court to be shown according to proof at trial but including, and not limited to, the cost of repairing and replacing the defective materials and workmanship, testing and investigation of such defective materials and workmanship, lost rents and income, diminution of fair market value, and legal and professional costs, as well as other incidental and consequential damages.

45. Plaintiff has given notice to Defendants of the defects in construction as determined to date by Plaintiff's forensic construction consultant.
WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

FOURTH CAUSE OF ACTION

[Negligence Against All Defendants and DOES 1-100]

46. Plaintiff refers to the allegations in the preceding paragraphs and incorporates them herein by reference as though set forth in full.

47. Defendants had a duty to exercise reasonable care in the design, management and/or construction of the PROJECT. Attached hereto as Exhibit "A" is a true and correct copy of the Certificate of Merit filed by Plaintiff's prior counsel of record as provided by Code of Civil Procedure.

48. Defendants breached their duty of care in failing to assure the PROJECT was designed, managed and/or built correctly, and according to specifications and industry standards.

49. Defendants breached their duties to exercise reasonable care in the design, management and/or construction of the PROJECT as the work on the PROJECT is defectively constructed, as set forth above.

50. As a proximate result of Defendants' negligence as set forth above, Plaintiff has suffered damages in an amount exceeding the minimal jurisdictional amount of this Court to be shown according to proof at trial but including, and not limited to, the cost of repairing and replacing the defective materials and workmanship, testing and investigation of such defective materials and workmanship, lost rents and income, diminution of fair market value, and legal and professional costs, as well as other incidental and consequential damages.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

FIFTH CAUSE OF ACTION

[Strict Liability Against All Defendants and DOES 1-100, Not including Professional Entity Defendants]

51. Plaintiff refers to the allegations in the preceding paragraphs and incorporates them herein by reference as though set forth in full.
Plaintiff is informed and believes, and thereon alleges, that at all times relevant hereto Defendants, and each of them, were in the business of designing, manufacturing, distributing, constructing, assembling, fabricating, selling, providing, testing, supplying and producing multi-family apartment structures, buildings, building products, components, parts, and appurtenant structures for sale to, and use by, members of the general public, including, but not limited to, those products and materials used in the construction of the PROJECT.

Defendants, and each of them, designed, manufactured, distributed, constructed, assembled, fabricated, sold, provided, tested, distributed, supplied and produced multi-family apartment structures, buildings, building products, components, parts, and appurtenant structures for the PROJECT. Said Defendants knew, or had reason to know, that Plaintiff and others would rely on the skill, expertise and judgment of Defendants for the design, manufacture, distribution, construction, assembly, fabrication and production of the PROJECT and that said products would be used without inspection by Plaintiff for defects and/or that defects would not be apparent with reasonable inspection.

Said products were unfit and unsafe for their intended use, and could and have caused physical damage to the Plaintiff's PROJECT as a result of said unfitness.

Plaintiff have used said products in a reasonably foreseeable manner without knowing of the unsafe and defective nature of said product. Said defects were latent but existed in said products at the time they were delivered to and constructed within the PROJECT.

As a proximate result of Defendants' breach as set forth above, Plaintiff has suffered damages in an amount exceeding the minimal jurisdictional amount of this Court to be shown according to proof at trial but including, and not limited to, the cost of repairing and replacing the defective materials and workmanship, testing and investigation of such defective materials and workmanship, lost rents and income, diminution of fair market value, and legal and professional costs, as well as other incidental and consequential damages.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.
SIXTH CAUSE OF ACTION

[Express Contractual Indemnity against ALL Defendants
and DOES 1 through 100, inclusive]

57. Plaintiff refers to the allegations in the preceding paragraphs and incorporates them herein by reference as though set forth in full.

58. Plaintiff entered into written contracts with Defendants, and each of them, either directly or as a third party beneficiary through the express agents of the Plaintiff, whereby each Defendant agreed, for due consideration, to defend, indemnify and save Plaintiff harmless to the fullest extent possible under the law from and against any and all loss, damages, liability, claims, demands, costs, and expenses of any kind, including attorneys' fees and expert fees, arising out of or in any manner directly or indirectly connected with the PROJECT, any default by Defendants, any act or omission of Defendants or Defendants' agents or employees and regardless of any active or passive fault or action on the part of Plaintiff and its agents and representatives, excepting any such matters solely and exclusively caused by the sole negligence or willful misconduct of Plaintiff.

59. Defendants further agreed to defend, indemnify and save WNC harmless to the fullest extent possible under the law as to any and all claims, liability, loss, damage, costs, including reasonable attorneys' fees, awards, fines or judgments arising by reason of any obligation or Indemnity which WNC has to Plaintiff and Plaintiff's agents and representatives.

60. Defendants', and each of their, indemnification and hold harmless agreements included the immediate duty to defend Plaintiff, WNC, and their agents and representatives as to claims and demands made against them.

61. Plaintiff has fully performed all the conditions and obligations on its part required under each of the said agreements.

62. Defendants, and each of them, are required to hold harmless, defend and indemnify Plaintiff with regard to the losses, damages and claims arising out of or related to their work, the PROJECT and all matters related thereto. And, as a result of the negligence, breach of contract, fault, or legal responsibility of Defendants, and each of them, as hereinabove alleged, Plaintiffs
have been required and have expended, or may be required to and will expend, substantial amounts in repairing, mitigating, investigating and responding to and defending against the complaints of Plaintiff's tenants and residents at the PROJECT and in other matters according to proof.

63. Plaintiff is entitled to be fully reimbursed, to be defended and to be indemnified and hold safe and harmless by Defendants, and each of them, for all otherwise recoverable fees, expenses, costs, consultant fees, expert fees, and attorneys' fees, incurred in connection with this suit, as well as all damages resulting from Defendants' breach of their contractual responsibilities.

64. By this Complaint, and although not legally required to do so, Plaintiffs hereby tender its defense and indemnification to Defendants, and each of them, and demands that Defendants immediately defend, indemnify, and hold Plaintiffs harmless as to all claims and damages as fully required by the written agreements between them and as alleged herein.

SEVENTH CAUSE OF ACTION

[Breach of Third Party Beneficiary Contract against ALL Defendants and DOES 1 through 100, inclusive, Not including Defendants WNC and MV&P]

65. Plaintiff refers to the allegations in the preceding paragraphs and incorporates them herein by reference as though set forth in full.

66. Plaintiff is informed and believes, and thereon alleges that Subcontractor Defendants, and each of them, entered into written contracts with WNC pursuant to which the Subcontractor Defendants agreed to perform work of improvement at the PROJECT. These contracts were made for the benefit of Plaintiff.

67. Plaintiff is informed and believes, and thereon alleges that Subcontractor Defendants breached said contracts with WNC in that they failed to perform their scopes of work in a workmanlike manner and in accordance with the plans and specifications and applicable building codes.

68. Plaintiff is informed and believes, and thereon alleges that Defendant GROUP M entered into written contracts with MV&P pursuant to which the GROUP M Defendants agreed to...
1 perform professional structural and other civil engineering work for the PROJECT. This contract
2 was made for the benefit of Plaintiff.
3
4 69. Plaintiff is informed and believes, and thereon alleges that, as a direct and
5 proximate result of the foregoing breach of the third party beneficiary contracts, and the actions
6 and/or omissions of the said Defendants, and each of them, Plaintiff has suffered damages in an
7 amount exceeding the minimal jurisdictional amount of this Court to be shown according to proof
8 at trial but including, and not limited to, the cost of repairing and replacing the defective materials
9 and workmanship, testing and investigation of such defective materials and workmanship, lost
10 rents and income, diminution of fair market value, and legal and professional costs, as well as
11 other incidental and consequential damages.
12
13 70. Plaintiff is informed and believes, and thereon alleges that, as a further direct and
14 proximate result of the breach of third party beneficiary contracts by the said Defendants, and each
15 of them, the interest of Plaintiff in the PROJECT and the value thereof has been reduced and
16 diminished in an amount presently unknown but will be established at the time of trial, according
17 to proof.
18
19 71. Plaintiff is informed and believes and thereon alleges that, as a further direct and
20 proximate result of the breach of third party beneficiary contracts by the said Defendants, and each
21 of them, the residents of the PROJECT have sustained damage to the interior portions of their
22 dwelling units and sustained loss of use and enjoyment of their dwelling units in an amount
23 presently unknown but will be established at the time of trial, according to proof.
24
25 PRAYER
26
27 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
28 follows:
29
30 1. For general, special and compensatory damages and for consequential damages
31 according to proof;
32
33 2. For all investigative and testing costs including expert and consultant fees and
34 expenses;
35
36 3. For past and future costs of repair;
37
38 FIRST AMENDED COMPLAINT FOR DAMAGES
4. For indemnity/compensatory damages according to proof;
5. For an order of the court determining the rights of Plaintiffs to express contractual indemnity from the Defendants contained in the Sixth Cause of Action;
6. For declaratory judgment that Defendants, and each of them, must defend, indemnify and hold harmless Plaintiff from all damages, judgments, settlements and for costs, expenses, attorneys' fees, and other damages incurred in defending the damage claims at the PROJECT and in prosecuting this complaint and other claims and damages at the PROJECT;
7. For attorneys' fees and costs of suit as allowable by law and the contracts between the parties;
8. For pre-judgment and post-judgment interest at the legal rate of interest;
9. For such other and further relief as the Court may deem just and proper.

Dated: March 20, 2014

ROBINSON & WOOD, INC.

By: [Signature]

GREGORY B. COHEN
Attorneys for Plaintiff, CILKER APARTMENTS, LLC