

Oct 7, 2015 4:12 PM

David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-13-CV-258281 Filing #G-77335
By G. Duarte, Deputy

1 ROBERT B. LUECK, ESQ. (83673)
ALEXANDER R. MOORE, ESQ. (195509)
2 JOHN A. CASTRO, ESQ. (273698)
BOORNAZIAN, JENSEN & GARTHE
3 A Professional Corporation
555 12th Street, Suite 1800
4 Oakland, CA 94607
Facsimile: (510) 839-1897
5 Telephone: (510) 834-4350

6 Attorneys for Defendant/Cross-Defendant
Madera Framing, Inc.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SANTA CLARA

10 CILKER APARTMENTS, LLC,)
11 Plaintiff,)
12 vs.)
13 WESTERN NATIONAL CONSTRUCTION,)
et al.,)
14 Defendants.)
15)
16 AND RELATED CROSS-ACTIONS.)
17)

Case No.: 113CV258281

**NOTICE OF MOTION/MOTION FOR
SUMMARY JUDGMENT AGAINST
PLAINTIFF CILKER APARTMENTS,
LLC**

Date: December 18, 2015
Time: 9:00 a.m.
Dept: 1

Complaint Filed: March 20, 2014
Trial Date: February 1, 2015

18 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

19 PLEASE TAKE NOTICE that on December 18, 2015, at 9:00 a.m., or as soon thereafter
20 as the matter may be heard in Dept. 1 of the above-entitled court, located at 191 North First Street,
21 San Jose, California 95113, Defendant and Cross-Defendant MADERA FRAMING, INC.
22 (“MADERA FRAMING”) will move the Court, pursuant to Code of Civil Procedure section 437c,
23 for summary judgment in favor of MADERA FRAMING and against Plaintiff CILKER
24 APARTMENTS, LLC (“PLAINTIFF”).

25 This motion is made on the ground that the undisputed facts show that PLAINTIFF
26 previously entered into a prior Mutual Release and Settlement Agreement with MADERA
27 FRAMING, whereby PLAINTIFF released MADERA FRAMING of all claims and causes of
28

1 action it now brings forth in the present action. This motion is against every single cause of action
2 raised in PLAINTIFF's operative complaint.

3 This motion is based on the Memorandum of Points & Authorities, the Declaration of John
4 A. Castro, the Declaration of Jerry Merry, the Separate Statement of Undisputed Material Facts,
5 and the Request for Judicial Notice, all filed and served concurrently herewith. This motion is also
6 based on the pleadings in this action and the court's file, which MADERA FRAMING respectfully
7 requests the Court to have on hand during the hearing on this motion.

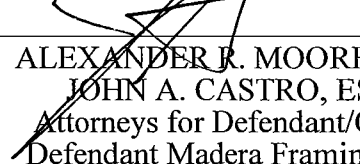
8 Please note that the above-entitled court follows a tentative ruling system. The Complex
9 Civil Litigation Department Guidelines and Protocols state as follows:

10 *Tentative rulings on motions of all types are posted online by 2:00*
11 *p.m. the day prior to the hearing and unless an objection is*
12 *properly raised by 4:00 p.m. the day prior to the hearing, the*
13 *ruling will automatically become the Court's order the next day.*
For specific information, go to: [http://www.scscourt.org/online](http://www.scscourt.org/online_services/tentatives/tentative_rulings_Dept1.shtml)
[services/tentatives/tentative_rulings_Dept1.shtml](http://www.scscourt.org/online_services/tentatives/tentative_rulings_Dept1.shtml)

14 For further information, please visit [https://www.scefilng.org/Complex_Civil_Litigation](https://www.scefilng.org/Complex_Civil_Litigation_Guidelines_2014_03_04.pdf)
15 [Guidelines_2014_03_04.pdf](https://www.scefilng.org/Complex_Civil_Litigation_Guidelines_2014_03_04.pdf) or [http://www.scscourt.org/online_services/tentatives/tentative](http://www.scscourt.org/online_services/tentatives/tentative_rulings_Dept1.shtml)
16 [rulings_Dept1.shtml](http://www.scscourt.org/online_services/tentatives/tentative_rulings_Dept1.shtml).

17 DATED: October 6, 2015

18 BOORNAZIAN, JENSEN & GARTHE
A Professional Corporation

19
20 By: 
21 ALEXANDER R. MOORE, ESQ.
22 JOHN A. CASTRO, ESQ.
Attorneys for Defendant/Cross-
Defendant Madera Framing, Inc.

23 27470\700496

24

25

26

27

28