

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): GREEN & HALL, APC 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@gree ATTORNEY FOR (Name): WESTERN NATIONAL CONSTRUCTION	FOR COURT USE ONLY
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	CASE NUMBER: 113CV258281
<p align="center">NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION (Code Civ. Proc., §§ 1985.3, 1985.6)</p>	

NOTICE TO CONSUMER OR EMPLOYEE

TO (name): Cilker Apartments, LLC via attorney of record

- PLEASE TAKE NOTICE THAT **REQUESTING PARTY (name):** Western National Construction SEEKS YOUR RECORDS FOR EXAMINATION by the parties to this action on (specify date): December 1, 2015
 The records are described in the subpoena directed to **witness (specify name and address of person or entity from whom records are sought):** City National Bank 2001 North Main Street, Suite 120, Walnut Creek CA
 A copy of the subpoena is attached.
- IF YOU OBJECT to the production of these records, YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED. IN ITEM a. OR b. BELOW:
 - If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the **witness** and the **deposition officer** named in the subpoena at least five days before the date set for production of the records.
 - If you are not a party to this action, you must serve on the **requesting party** and on the **witness**, before the date set for production of the records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the reverse side indicating whether you personally served or mailed the objection. The objection should **not** be filed with the court. **WARNING: IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.**
- YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS OF PRIVACY.

Date: November 3, 2015

Michael A. Erlinger
 (TYPE OR PRINT NAME)


 (SIGNATURE OF REQUESTING PARTY ATTORNEY)

OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS

- I object to the production of all of my records specified in the subpoena.
- I object only to the production of the following specified records:
- The specific grounds for my objection are as follows:

Date:

 (TYPE OR PRINT NAME)


 (SIGNATURE)

PLAINTIFF/PETITIONER: CILKER APARTMENTS, LLC
 DEFENDANT/RESPONDENT: WESTERN NATIONAL CONSTRUCTION, et

CASE NUMBER:
 113CV258281

PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION
(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Notice to Consumer or Employee and Objection* as follows (check either a or b):
 - a. **Personal service.** I personally delivered the *Notice to Consumer or Employee and Objection* as follows:
 - (1) Name of person served:
 - (2) Address where served:
 - (3) Date served:
 - (4) Time served:
 - b. **Mail.** I deposited the *Notice to Consumer or Employee and Objection* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
 - (1) Name of person served: Jon B. Zimmerman, Esq.
 - (2) Address: Robinson & Wood, Inc.
227 N. 1st Street, San Jose CA 95113
 - (3) Date of mailing: 11/4 /2015
 - (4) Place of mailing (city and state):
Santa Ana CA
 - (5) I am a resident of or employed in the county where the *Notice to Consumer or Employee and Objection* was mailed.
 - c. My residence or business address is (specify): 1851 E. First St., 10th Floor, Santa Ana CA 92705
 - d. My phone number is (specify): (714) 918-7000

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

Date: November 4, 2015

Sheila Ellis

(TYPE OR PRINT NAME OF PERSON WHO SERVED)



(SIGNATURE OF PERSON WHO SERVED)

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS
(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Objection to Production of Records* as follows (complete either a or b):
 - a. ON THE REQUESTING PARTY
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:
 - (i) Name of person served:
 - (ii) Address where served:
 - (iii) Date served:
 - (iv) Time served:
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
 - (i) Name of person served:
 - (ii) Address:
 - (iii) Date of mailing:
 - (iv) Place of mailing (city and state):
 - (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
 - b. ON THE WITNESS
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:
 - (i) Name of person served:
 - (ii) Address where served:
 - (iii) Date served:
 - (iv) Time served:
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:
 - (i) Name of person served:
 - (ii) Address:
 - (iii) Date of mailing:
 - (iv) Place of mailing (city and state):
 - (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
3. My residence or business address is (specify):
4. My phone number is (specify):

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

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)

(SIGNATURE OF PERSON WHO SERVED)

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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 November 4, 2015, I served the within document(s) described as:

NOTICE TO CONSUMER RE DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

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 November 4, 2015, at Santa Ana, California.



Sheila Ellis

GREEN & HALL
ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): GREEN & HALL, APC 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.: (714)918-6996 E-MAIL ADDRESS: sdanskin@greenhall.com; merlinger@gree 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	
<p style="text-align: center;">DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS</p>	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known)*:
 Custodian of Records, City National Bank, 2001 North Main Street, Suite 120,
 Walnut Creek CA 94596 (925)274-2740

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To <i>(name of deposition officer)</i> : First Records Retrieval	
On <i>(date)</i> : December 1, 2015	At <i>(time)</i> : 10:00 a.m.
Location <i>(address)</i> : 1138 Howard Street, San Francisco CA 94103 (877) 591-9979	
Do not release the requested records to the deposition officer prior to the date and time stated above.	

- a. by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified): see Attachment 3

Continued on Attachment 3.

4. 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.

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

Date issued: November 3, 2015
 Michael A. Erlinger
 (TYPE OR PRINT NAME)


 (ENR)

Attorneys for Western National Constr
 (TITLE)

(Proof of service on reverse)

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

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* 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. (1) Witness fees were paid.
Amount: \$ 0.00

(2) Copying fees were paid.
Amount: \$ 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.

Date:

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

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 CITY NATIONAL BANK, the entity responding to this Deposition Subpoena, and any of its 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 CA
- 5220 Terner Way, San Jose CA
- 5230 Terner Way, San Jose CA

DOCUMENTS TO BE PRODUCED

1. Any and all DOCUMENTS concerning, referencing or relating to the PROPERTY, including but not limited to, all applications, agreements, statements, mortgage documents, loan documents, investment documents, reports, notes, emails, photographs, plans, contracts, memoranda, letters, bids, photographs, videotapes, diagrams, specifications, journals, invoices, purchase orders, change orders, addenda reports, job diaries, receipts, project files, site records, daily job logs, field orders, superintendent reports, requests for clarification, requests for information, time cards, governmental inspection punch lists and sign off sheets, appraisals, statements, and invoices relating to the design, analysis, construction, repair or maintenance for 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, specifications, details, 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 related, concerning or referencing any repair, maintenance or remediation at the PROPERTY from January 1, 2000 to the present.
11. Any and all DOCUMENTS, including but not limited to photographs or video recordings, that depict, capture, or display of any portion of the PROPERTY.
12. Any and all non-privileged DOCUMENTS to, from, concerning, referencing, or relating to Cilker Apartments LLC and concerning, referencing, or relating to the PROPERTY.
13. Any and all non-privileged DOCUMENTS to, from, concerning, referencing, or relating to Cilker Orchards and concerning, referencing, or relating to the PROPERTY.

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On November 4, 2015, I served the within document(s) described as:

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

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 November 4, 2015, at Santa Ana, California.



Sheila Ellis

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On November 4, 2015, I served the within document(s) described as:

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

on each interested party in this action as stated below:

Cilker Orchards
Attn: Carl Cilker
1631 Willow Street, Suite 105
San Jose, CA 95125

Jon B. Zimmerman, Esq.
Robinson & Wood, Inc.
227 N. 1st Street
San Jose, CA 95113
(408) 298-7120; Fax: (408) 298-0477
jbz@robinsonwood.com

BY MAIL: By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this Firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Santa Ana, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on November 4, 2015, at Santa Ana, California.

Sheila Ellis