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KEVIN STOCK
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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

MAUREEN HAY, a Washington resident;
IGOR SMAL, a Washington resident,
HANNA SMAL, a Washington resident,
JORDAN SMITH, a Washington resident,
CAMERON SMITH, a Washington resident,
ALEX KULIBABA, a Washington resident,
NATALYA MANCHIK, a Washington
resident, DAN HART, a Washington resident,
SHAWNA HART, a Washington resident,
PETER MANNING, a Washington resident,
ADRIENNE MANNING, a Washington
resident, JOHN BETHKE, a Washington
resident, TAWNY CABRAL, a Washington
resident, WHITNEY DeCORIA, a
Washington resident, RYAN DeCORIA, a
Washington resident, VASILIIY LYSYY, a
Washington resident, TATYANA LYSYY, a
Washington resident, JOSEPHINE
PANGAN, a Washington resident, AUBREY
BRADLEY, a Washington resident, OZNUR
BRADLEY, a Washington resident, CODY
WHITNEY, a Washington resident,
YVONNE JOHNSON, a Washington
resident, HAROON SAKHI, a Washington
resident, ADELA SAKHI, a Washington
resident, DARRYL JOHNSON, a
Washington resident, CHRISTINE
JOHNSON, a Washington resident, KEN
EDWARDS, a Washington resident, SHERRI
PENA, a Washington resident, YONG LIM, a
Washington resident, AMBER LEE, a
Washington resident, WHITNEY SARGENT,
a Washington resident, YEVGENIY "JOHN"

NO.

PLAINTIFFS' COMPLAINT FOR:

1. BREACH OF WASHINGTON
CONDOMINIUM ACT
2. BREACH OF CONTRACT
3. BREACH OF EXPRESS
WARRANTY
4. BREACH OF IMPLIED
WARRANTY
5. VIOLATION OF RCW 18.86

COMPLAINT FOR BREACH OF WASHINGTON
CONDOMINIUM ACT, BREACH OF CONTRACT, BREACH
OF EXPRESS WARRANTY, BREACH OF IMPLIED
WARRANTY - 1

CASEY & SKOGLUND PLLC
1319 DEXTER AVE. N, SUITE 370
SEATTLE, WA 98109
T: 206.284.8165 | F: 206.770.6427

1 ZADNEPROVSKIY, a Washington resident,
MARINA ZADNEPROYSKIY, a
2 Washington resident, EUN YOUNG LEE, a
Washington resident, KURT BERG, a
3 Washington resident, TRACY BERG, a
Washington resident, PETE NITO, a
4 Washington resident, JENELYN NITO, a
Washington resident, WILLIAM DUNGER, a
5 Washington resident, TANYA DUNGER, a
6 Washington resident, ANTON OMELIN, a
Washington resident, BANNY CHHOEUN, a
7 Washington resident, SARETH CHHOEUN,
a Washington resident, ADAM JACKSON, a
8 Washington resident, SARA JACKSON, a
Washington resident, LAYLA BUGADO, a
9 Washington resident, BRAD BUGADO, a
Washington resident, PHU DO, a Washington
10 resident, HIEN TRAN, a Washington
resident, JASON IHDE, a Washington
11 resident, and BETH IHDE, a Washington
resident;

12
13 Plaintiffs,

14 vs.

15 HIGHMARK HOMES, LLC, a Washington
Corporation; TOM TOLLEN and JANE DOE
16 TOLLEN, and the marital community
composed thereof,

17 Defendants.
18

19 COMES NOW Plaintiffs, Maureen Hay, Igor & Hanna Smal, Jordan & Cameron
20 Smith, Alex Kulibaba, Natalya Manchik, Dan & Shawna Hart, Peter & Adrienne Manning,
21 John Bethke, Tawny Cabral, Whitney & Ryan DeCoria, Vasiliy & Tatyana Lysyy, Josephine
22 Pangan, Aubrey & Oznur Bradley, Cody Whitney, Yvonne Johnson, Haroon & Adela Sakhi,
23 Darryl & Christine Johnson, Ken Edwards, Sherri Pena, Yong Lim, Amber Lee, Whitney
24 Sargent, Yevgeniy & Marina Zadneproyskiy, Eun Young Lee, Kurt & Tracy Berg, Pete &

25
COMPLAINT FOR BREACH OF WASHINGTON
CONDOMINIUM ACT, BREACH OF CONTRACT, BREACH
OF EXPRESS WARRANTY, BREACH OF IMPLIED
WARRANTY - 2

CASEY & SKOGLUND PLLC
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1 Jenelyn Nito, William & Tanya Dunger, Anton Omelin, Banny & Sareth Chhoeun, Adam &
2 Sara Jackson, Brad & Layla Bugado, Phu Do, Hien Tran, and Jason & Beth Ihde, by and
3 through their counsel of record, Casey & Skoglund, PLLC, and assert the following:

4 **PARTIES**

- 5 1. Plaintiff Maureen Hay is an owner of a home at Valley Haven.
6 2. Plaintiffs Igor & Hanna Smal are owners of a home at Valley Haven.
7 3. Plaintiffs Jordan & Cameron Smith are owners of a home at Valley Haven.
8 4. Plaintiffs Alex Kulibaba & Natalya Manchik are owners of a home at Valley
9 Haven.
10 5. Plaintiffs Dan & Shawna Hart are owners of a home at Valley Haven.
11 6. Plaintiffs Peter & Adrienne Manning are owners of a home at Valley Haven.
12 7. Plaintiffs John Bethke & Tawny Cabral are owners of a home at Valley Haven.
13 8. Plaintiffs Ryan & Whitney DeCoria are owners of a home at Valley Haven.
14 9. Plaintiffs Vasily & Tatyana Lysy are owners of a home at Valley Haven.
15 10. Plaintiff Josephine Pangan is an owner of a home at Valley Haven.
16 11. Plaintiffs Oznur & Aubrey Bradley are owners of a home at Valley Haven.
17 12. Plaintiffs Cody Whitney & Yvonne Johnson are owners of a home at Valley
18 Haven.
19 13. Plaintiffs Haroon & Adela Sakhi are owners of a home at Valley Haven.
20 14. Plaintiffs Darryl & Christine Johnson are owners of a home at Valley Haven.
21 15. Plaintiffs Ken Edwards & Sherri Pena are owners of a home at Valley Haven.
22 16. Plaintiff Yong Lim is an owner of a home at Valley Haven.
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- 1 17. Plaintiff Amber Lee is an owner of a home at Valley Haven.
- 2 18. Plaintiff Whitney Sargent is an owner of a home at Valley Haven.
- 3 19. Plaintiffs Yevegeniy “John” & Marina Zadneprovskiy are owners of a home at
- 4 Valley Haven.
- 5 20. Plaintiff Eun Young Lee is an owner of a home at Valley Haven.
- 6 21. Plaintiffs Kurt & Tracy Berg are owners of a home at Valley Haven.
- 7 22. Plaintiffs Pete & Jenelyn Nito are owners of a home at Valley Haven.
- 8 23. Plaintiffs William & Tanya Dunger are owners of a home at Valley Haven.
- 9 24. Plaintiff Anton Omelin is an owner of a home at Valley Haven.
- 10 25. Plaintiffs Banny & Sareth Chhoeun are owners of a home at Valley Haven.
- 11 26. Plaintiffs Adam & Sara Jackson are owners of a home at Valley Haven.
- 12 27. Plaintiffs Brad & Layla Bugado are owners of a home at Valley Haven.
- 13 28. Plaintiffs Phu Do & Hien Tran are owners of a home at Valley Haven.
- 14 29. Plaintiffs Jason & Beth Ihde are owners of a home at Valley Haven.
- 15 30. Hereinafter Plaintiffs, Maureen Hay, Igor & Hanna Smal, Jordan & Cameron
- 16 Smith, Alex Kulibaba, Natalya Manchik, Dan & Shawna Hart, Peter & Adrienne Manning,
- 17 John Bethke, Tawny Cabral, Whitney & Ryan DeCoria, Vasiliy & Tatyana Lysyy, Josephine
- 18 Pangan, Aubrey & Oznur Bradley, Cody Whitney, Yvonne Johnson, Haroon & Adela Sakhi,
- 19 Darryl & Christine Johnson, Ken Edwards, Sherri Pena, Yong Lim, Amber Lee, Whitney
- 20 Sargent, Yevgeniy & Marina Zadneproyskiy, Eun Young Lee, Kurt & Tracy Berg, Pete &
- 21 Jenelyn Nito, William & Tanya Dunger, Anton Omelin, Banny & Sareth Chhoeun, Adam &
- 22 Sara Jackson, Brad & Layla Bugado, Phu Do, Hien Tran, and Jason & Beth Ihde are
- 23
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1 collectively referred to as “Individual Plaintiffs.”

2 31. Defendant Highmark Homes (hereinafter “Highmark”) is a Washington
3 corporation doing business in Fife, Pierce County Washington.

4 32. Defendant Highmark constructed 29 homes located within Valley Haven
5 project development, in Fife, Washington.

6 33. Defendant Highmark sold 29 homes located within Valley Haven project
7 development, in Fife, Washington.

8 34. Defendant Tom Tollen and Defendant Jane Doe Tollen are husband and wife
9 and the actions of each is in furtherance of the marital community.

10 35. Defendant Tom Tollen is a Member of Defendant Highmark.

11 36. Defendant Tom Tollen is Managing Member of Defendant Highmark.

12 37. Defendant Tom Tollen is a licensed Real Estate Agent.

13 38. Defendant Tom Tollen is a licensed Real Estate Broker.

14 39. Defendant Tom Tollen acted as Broker on behalf of Highmark for the purchase
15 and / or the sale of the Valley Haven homes constructed by Defendant Highmark.

16 40. Defendant Tom Tollen acted as Broker on behalf of one or more named
17 Plaintiffs pertaining to his/her or their purchase of a Highmark constructed home located
18 within Valley Haven community development, located in Fife Washington.
19

20 **VENUE / JURISDICTION**

21 41. Pierce County Superior Court is the proper venue for this action and also has
22 jurisdiction over this matter as the property and damages associated therewith is located in
23 Fife, Pierce County Washington, the Defendant performs business related hereto in Fife,
24

1 Pierce County Washington, and the Individual Plaintiffs properties and sales contracts related
2 hereto are located and were executed in Fife, Pierce County Washington.

3 **CAUSES OF ACTION:**

4 **VIOLATION OF WASHINGTON CONDOMINIUM ACT**

5 42. The Individual Plaintiffs re-allege and incorporate herein all preceding
6 paragraphs.

7 43. According to the WCA, Defendant Highmark is the “declarant,” and / or
8 “dealer” for Valley Haven, or an “affiliate” thereof.

9 44. Under the WCA, Defendant Highmark impliedly warranted that the units were
10 suitable for the ordinary uses of real estate of its type, and that the improvements made or
11 contracted for by Highmark were free from defective materials and constructed in accordance
12 with sound engineering and construction standards, and in a workmanlike manner and / or in
13 compliance with all applicable laws.

14 45. Defendant Highmark breached one or more the above-described implied
15 warranties, and the resulting construction deficiencies are adversely affecting the Individual
16 Plaintiffs’ homes. Water is able to penetrate into their homes exterior and interior building
17 surfaces and framing components and cause property damage. The useful safe-life of their
18 homes has also been shortened by the resulting property damage and other structural
19 deficiencies in their construction.
20

21 46. The Individual Plaintiffs are entitled recover the cost to repair all defects
22 adversely affecting the homes of the Individual Plaintiffs and any and all associated property
23 damage caused thereby. The Individual Plaintiffs are further entitled to any and all other
24

1 damages that may be awarded to them under the WCA for declarant’s breach of the warranties
2 prescribed therein.

3 47. Defendant Highmark also breached the WCA by failing to deliver a Public
4 Offering Statement to the Individual Plaintiffs.

5 48. The Individual Plaintiffs are entitled to damages for Highmark’s failure to
6 deliver a Public Offering Statement as described in RCW 64.34.420.

7 **BREACH OF CONTRACT**

8 49. The Individual Plaintiffs incorporate all preceding paragraphs.

9 50. Defendant Highmark entered into real estate purchase and sales agreements
10 (“RESPA”) with the Individual Plaintiffs named herein.

11 51. The RESPAs, and documents related thereto or made a part thereof, include an
12 implied duty to act in good faith.

13 52. Defendant Highmark failed to exercise good faith by failing to ensure the
14 homes, prior to their sale, meet minimum construction standards.

15 53. The Individual Plaintiffs’ homes are damaged as a result of the defects;
16 including water penetrating exterior and interior building surfaces and damaging framing
17 components of homes.
18

19 54. The useful safe-life of Individual Plaintiffs’ homes is shortened as a result of
20 property damage.

21 55. Individual Plaintiffs are entitled to recover the full cost to repair and any
22 consequential losses arising out of or related to Defendant Highmark’s breach, and the
23 property damages caused thereby, including any costs paid to investigate and make necessary
24

1 immediate / emergency repairs, and stigma damages.

2 **BREACH OF EXPRESS WARRANTY**

3 56. The Individual Plaintiffs incorporate all preceding paragraphs.

4 57. Defendant Highmark's RESPAs include express warranties pertaining to the
5 construction of the homes.

6 58. Defendant Highmark promised the homes are free of defects, built in
7 compliance with industry standards and applicable building codes, and built in a workmanlike
8 manner.

9 59. Defendant Highmark breached the RESPAs by failing to ensure the homes sold
10 to the Individual Plaintiffs are free from defects, built in compliance with industry standards
11 and applicable codes, and built in a workmanlike manner.

12 60. Individual Plaintiffs are entitled to recover the full cost of repairing the homes
13 and consequential loss arising out of, or related to Defendant's breach. Such costs include any
14 costs paid to investigate and make necessary immediate / emergency repairs, and stigma
15 damages.
16

17 **BREACH OF IMPLIED WARRANTY**

18 61. Individual Plaintiffs incorporate all preceding paragraphs.

19 62. Defendant Highmark is a builder-vendor of the homes.

20 63. The Individual Plaintiffs are original purchasers.

21 64. Defendant Highmark warranted the homes sold to the Individual Plaintiffs
22 included firm and secure foundations, that the homes were structurally fit and safe for their
23 intended purpose.
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