

CIVIL COVER SHEET

Clark County, Nevada

Case No. _____
(Assigned by Clerk's Office)

A- 12 - 657729 - C

XVI

I. Party InformationPlaintiff(s) (name/address/phone): Kimberly Karol,
Louise MumbyDefendant(s) (name/address/phone): Leon J. Benzer, et. Al.Attorney (name/address/phone): Matthew Q. Callister, Esq. 823 Las
Vegas Blvd. South, Las Vegas., NV 89101 (702) 385-3343

Attorney (name/address/phone): _____

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input checked="" type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

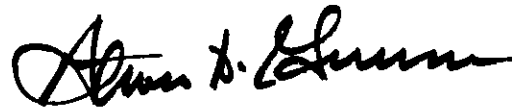
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|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

3-6-12

Date

/s/ Matthew Q. Callister, Esq.

Signature of initiating party or representative



CLERK OF THE COURT

1 **COMP**

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13 *Attorneys for Plaintiffs*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 KIMBERLY KAROL, an individual; LOUISE
17 MUMBY, an individual; and DOE PLAINTIFFS I-C,
18 inclusive;

19 Plaintiffs,

20 vs.

21 LEON J. BENZER, an individual; NANCY QUON, an
22 individual; DARRYL SCOTT NICHOLS, an individual;
23 MARCELLA Z. TRIANA, an individual; ANGELA
24 ESPARZA, an individual; MARY ANN WATTS, an
25 individual; DEBORAH GENATO, an individual;
26 DAVID AMESBURY, an individual; DAVID C.
27 AMESBURY, INC., a Nevada corporation; DANIEL J.
28 SOLOMON, an individual; DENISE KESER, an
individual; STEVEN WARK, an individual; SILVER
LINING CONSTRUCTION, LLC, a Nevada Limited
Liability Company; PLATINUM COMMUNITY
SERVICES, LLC, a Nevada Limited Liability Company;
CHATEAU VERSAILLES CONDOMINIUM
UNIT-OWNERS' ASSOCIATION, INC.; SUNSET
CLIFFS HOMEOWNERS' ASSOCIATION;
PALMILLA HOMEOWNER'S ASSOCIATION;
VISTANA CONDOMINIUM OWNERS
ASSOCIATION, INC.; TERRASINI UNIT OWNERS'
ASSOCIATION; CHATEAU NOUVEAU
CONDOMINIUM UNIT-OWNERS' ASSOCIATION,
INC.; PARK AVENUE HOMEOWNERS'
ASSOCIATION; PEBBLE CREEK HOMEOWNERS'
ASSOCIATION, INC.; ROE HOA'S I-X; ROE
PROPERTY MANAGEMENT COMPANIES XI-XX;
DOE CONSPIRATORS XXI-XXX, DOES XXXI-XL,
inclusive; and ROE CORPORATIONS XLI-L, inclusive;

Defendants.

A- 12- 657729- C

Case No.:

Dept. No.: **XVI**

CLASS ACTION
COMPLAINT

1. Declaratory Relief;
2. Intentional Interference with
Prospective Economic Advantage
3. Civil Conspiracy
4. Negligence
5. Alter Ego

Exempt from Arbitration

CALLISTER + ASSOCIATES, LLC
823 Las Vegas Blvd. South, 5th Floor
Las Vegas, Nevada 89101

COMES NOW, Plaintiff Class Representative KIMBERLY KAROL, and other named Plaintiffs LOUISE MUMBY and DOE PLAINTIFFS I-C, by and through their attorneys, Matthew Q. Callister, Esq. and Mitchell S. Bisson, Esq., of the law firm of Callister + Associates, and hereby Complains, alleges and avers against the above named Defendants, as follows:

I. PARTIES AND JURISDICTION

1. Plaintiff Class Representative KIMBERLY KAROL is an individual residing in Clark County, Nevada.
2. Plaintiff LOUISE MUMBY is an individual residing in Clark County, Nevada.
3. DOE PLAINTIFFS I-C are yet unnamed individuals residing in Clark County, Nevada that are similarly situated as Plaintiff Class Representative KIMBERLY KAROL.
4. Upon information and belief, Defendant LEON J. BENZER is an individual residing in Clark County, Nevada.
5. Upon information and belief, Defendant NANCY QUON is an individual residing in Clark County, Nevada.
6. Upon information and belief, Defendant DARRYL SCOTT NICHOLS is an individual residing in Clark County, Nevada.
7. Upon information and belief, Defendant MARCELLA Z. TRIANA is an individual residing in Clark County, Nevada.
8. Upon information and belief, Defendant ANGELA ESPARAZA is an individual residing in Clark County, Nevada.
9. Upon information and belief, Defendant MARY ANN WATTS is an individual residing in Clark County, Nevada.
10. Upon information and belief, Defendant DEBORAH GENATO is an individual residing in Clark County, Nevada.
11. Upon information and belief, Defendant DAVID AMESBURY is an individual residing

COMES NOW, Plaintiff Class Representative KIMBERLY KAROL, and other named Plaintiffs LOIUSE MUMBY and DOE PLAINTIFFS I-C, by and through their attorneys, Matthew Q. Callister, Esq. and Mitchell S. Bisson, Esq., of the law firm of Callister + Associates, and hereby Complains, alleges and avers against the above named Defendants, as follows:

I. PARTIES AND JURISDICTION

1. Plaintiff Class Representative KIMBERLY KAROL is an individual residing in Clark County, Nevada.
2. Plaintiff LOUISE MUMBY is an individual residing in Clark County, Nevada.
3. DOE PLAINTIFFS I-C are yet unnamed individuals residing in Clark County, Nevada that are similarly situated as Plaintiff Class Representative KIMBERLY KAROL.
4. Upon information and belief, Defendant LEON J. BENZER is an individual residing in Clark County, Nevada.
5. Upon information and belief, Defendant NANCY QUON is an individual residing in Clark County, Nevada.
6. Upon information and belief, Defendant DARRYL SCOTT NICHOLS is an individual residing in Clark County, Nevada.
7. Upon information and belief, Defendant MARCELLA Z. TRIANA is an individual residing in Clark County, Nevada.
8. Upon information and belief, Defendant ANGELA ESPARAZA is an individual residing in Clark County, Nevada.
9. Upon information and belief, Defendant MARY ANN WATTS is an individual residing in Clark County, Nevada.
10. Upon information and belief, Defendant DEBORAH GENATO is an individual residing in Clark County, Nevada.
11. Upon information and belief, Defendant DAVID AMESBURY is an individual residing

- 1 in Clark County, Nevada.
- 2 12. Upon information and belief, Defendant DAVID C. AMESBURY, INC. is a Nevada
- 3 corporation doing business in Clark County, Nevada.
- 4 13. Upon information and belief, Defendant DANIEL J. SOLOMON is an individual
- 5 residing in Clark County, Nevada.
- 6 14. Upon information and belief, Defendant DENISE KESER is an individual residing in
- 7 Clark County, Nevada.
- 8 15. Upon information and belief, Defendant STEVEN WARK is an individual residing in
- 9 Clark County, Nevada.
- 10 16. Upon information and belief, Defendant SILVER LINING CONSTRUCTION, LLC is a
- 11 Nevada Limited Liability Company doing business in Clark County, Nevada.
- 12 17. Upon information and belief, Defendant PLATINUM COMMUNITY SERVICES, LLC
- 13 is a Nevada Limited Liability Company doing business in Clark County, Nevada.
- 14 18. Upon information and belief, Defendant CHATEAU VERSAILLES CONDOMINIUM
- 15 UNIT-OWNERS' ASSOCIATION, INC. is a domestic non-profit corporation doing
- 16 business in Clark County, Nevada.
- 17 19. Upon information and belief, Defendant SUNSET CLIFFS HOMEOWNERS'
- 18 ASSOCIATION is a domestic non-profit corporation doing business in Clark County,
- 19 Nevada.
- 20 20. Upon information and belief, Defendant PALMILLA HOMEOWNER'S ASSOCIATION
- 21 is a domestic non-profit corporation doing business in Clark County, Nevada.
- 22 21. Upon information and belief, Defendant VISTANA CONDOMINIUM OWNERS
- 23 ASSOCIATION, INC. is a domestic non-profit corporation doing business in Clark
- 24 County, Nevada.
- 25 22. Upon information and belief, Defendant TERRASINI UNIT OWNERS' ASSOCIATION
- 26 is a domestic non-profit corporation doing business in Clark County, Nevada.
- 27
- 28

- 1 23. Upon information and belief, Defendant CHATEAU NOUVEAU CONDOMINIUM
2 UNIT-OWNERS' ASSOCIATION, INC. is a domestic non-profit corporation doing
3 business in Clark County, Nevada.
- 4 24. Upon information and belief, Defendant PARK AVENUE HOMEOWNERS'
5 ASSOCIATION is a domestic non-profit corporation doing business in Clark County,
6 Nevada.
- 7 25. Upon information and belief, Defendant PEBBLE CREEK HOMEOWNERS'
8 ASSOCIATION, INC.. is a domestic non-profit corporation doing business in Clark
9 County, Nevada.
- 10 26. ROE HOA's I-X are homeowner's association that were involved with the civil
11 conspiracy alleged in this complaint. The true names of the capacities, whether
12 individual, agency, corporate, associate or otherwise, of Defendants ROE HOA's I-X,
13 inclusive, are unknown to Plaintiffs. Plaintiffs will ask leave of the Court to amend this
14 Complaint to show the true names and capacities of these Defendants, when they become
15 known to Plaintiffs. Plaintiffs believe each Defendant named as ROE HOA's I-X was
16 responsible for contributing to Plaintiffs' damages, set forth herein.
- 17 27. Defendants CHATEAU VERSAILLES CONDOMINIUM UNIT-OWNERS'
18 ASSOCIATION, INC., SUNSET CLIFFS HOMEOWNERS' ASSOCIATION,
19 PALMILLA HOMEOWNER'S ASSOCIATION, VISTANA CONDOMINIUM
20 OWNERS ASSOCIATION, INC., TERRASINI UNIT OWNERS' ASSOCIATION,
21 CHATEAU NOUVEAU CONDOMINIUM UNIT-OWNERS' ASSOCIATION, INC.,
22 PARK AVENUE HOMEOWNERS' ASSOCIATION, PEBBLE CREEK
23 HOMEOWNERS' ASSOCIATION, INC., and ROE HOA's I-X are hereinafter
24 sometimes referred to collectively as "HOA Defendants."
- 25 28. ROE PROPERTY MANAGEMENT COMPANIES XI-XX are property management
26 companies of the various HOA's involved with the civil conspiracy alleged in this
27
28

1 complaint. The true names of the capacities, whether individual, agency, corporate,
2 associate or otherwise, of Defendants ROE PROPERTY MANAGEMENT
3 COMPANIES XI-XX, inclusive, are unknown to Plaintiffs. Plaintiffs will ask leave of
4 the Court to amend this Complaint to show the true names and capacities of these
5 Defendants, when they become known to Plaintiffs. Plaintiffs believe each Defendant
6 named as ROE PROPERTY MANAGEMENT COMPANIES XI-XX was responsible for
7 contributing to Plaintiffs' damages, set forth herein.
8

9 29. DOE CONSPIRATORS XXI-XXX are co-conspirators in the general conspiracy that
10 damaged the named plaintiffs and the class members. The true names of the capacities,
11 whether individual, agency, corporate, associate or otherwise, of DOE CONSPIRATORS
12 XXI-XXX, inclusive, are unknown to Plaintiffs. Plaintiffs will ask leave of the Court to
13 amend this Complaint to show the true names and capacities of these Defendants, when
14 they become known to Plaintiffs. Plaintiffs believe each Defendant named as DOE
15 CONSPIRATORS XXI-XXX was responsible for contributing to Plaintiffs' damages, set
16 forth herein.
17

18 30. The true names of the capacities, whether individual, agency, corporate, associate or
19 otherwise, of Defendants DOES XXI-XL, inclusive, are unknown to Plaintiffs. Plaintiffs
20 will ask leave of the Court to amend this Complaint to show the true names and
21 capacities of these Defendants, when they become known to Plaintiffs. Plaintiffs believe
22 each Defendant named as DOES XXI-XL was responsible for contributing to Plaintiffs'
23 damages, set forth herein.

24 31. The true names of the capacities, whether individual, agency, corporate, associate or
25 otherwise, of Defendants ROE CORPORATIONS XLI-L, inclusive, are unknown to
26 Plaintiffs. Plaintiffs will ask to leave of the Court to amend this Complaint to show the
27 true names and capacities of these Defendants, when they become known to Plaintiffs.
28 Plaintiffs believes each Defendant named as ROE CORPORATIONS XLI-L was

1 responsible for contributing to Plaintiffs' damages, as set forth herein.

2 32. Exercise of the jurisdiction by this Court over each and every Defendant in this action is
3 appropriate.

4 33. Venue is proper in this court, Nevada.

5 II. CLASS ACTION ALLEGATIONS

6 34. The Plaintiffs' class seeks a judgment that Defendants conspired to enrich themselves by
7 fraudulently slandering various class members to win HOA board elections and then further
8 conspiring to vote in favor of litigating various construction defect lawsuits. Once the
9 lawsuits were brought Defendants conspired to pay construction contractors to make
10 superficial repairs that did not address the real underlying defects in the buildings. The class
11 alleges that because of the actions of the Defendants the underlying value of their property
12 has been diminished due to a combination of negative publicity which left a negative stigma
13 on their properties, issues with the title of their home, and the diminution of the values of
14 their home by at least 5% due to the instigation of frivolous construction defect lawsuits..

15 35. The class period commences 10 years prior from the date on which this action has been filed
16 with the Clerk of the Court for the District Court for Clark County, Nevada and consists of
17 all past and present real property owners (hereinafter "PROPERTY OWNERS") of Chateau
18 Versailles, Sunset Cliffs, Palmilla, Vistana, Terrasini, Chateau Nouveau, Park Avenue, and
19 Pebble Creek whom have been subjected to these fraudulent Construction Defect suits and
20 have subsequently had the value of their homes diminished by having their homes being
21 listed as subject to a construction defect suit..

22 36. The members of the class are so numerous as to render joinder impracticable. On
23 information and belief, there exists a multitude of persons whom own units in the various
24 condominiums and subdivisions. These class members have all suffered a depreciation of
25 their property value due to the conspiracy by the Defendants and furthermore have been
26 forced to endure substantial emotional distress because of the conspiracy.
27
28

1 37. The questions of law and fact common to the class include that each class members has
2 suffered a similar pecuniary loss, actionable in tort and contract, stemming from the exact
3 same central conspiracy by the Defendants.

4 38. The named Plaintiff Class Representative, KIMBERLY KAROL, is an adequate
5 representative of the class. The violations alleged by the Plaintiffs stem from the same
6 course of intentional conduct by Defendants; namely, the civil conspiracy that ultimately
7 diminished the value of their real property and slandered the title of their units. The legal
8 theory under which the Plaintiff Class Representative seeks relief is the same or similar to
9 that on which the class will rely. In addition, the harm suffered by the Plaintiff Class
10 Representative is typical of the harm suffered by the proposed class members.
11

12 39. The named Plaintiff Class Representative, KIMBERLY KAROL, has the requisite personal
13 interest in the outcome of this action and will fairly and adequately protect the interests of
14 the putative class. The Plaintiff Class Representative is represented by the law firm of
15 CALLISTER + ASSOCIATES, LLC. This law firm has the resources, expertise and
16 experience to prosecute this action. The members of Callister + Associates do not have
17 knowledge of any conflicts among the members of the class or between members of the firm
18 and members of this proposed class.
19

20 40. The class action is superior to other available methods for the fair and efficient adjudication
21 of this controversy because: (a) the prosecution of a multitude of separate actions would be
22 inefficient and wasteful of judicial resources; (b) the members of the class may be scattered
23 throughout Clark County, Nevada, the United States, and the world and are not likely to be
24 able to vindicate and enforce their rights unless this actions is maintained as a class action;
25 (c) the issues raised can be more fairly and efficiently resolved in the context of a single
26 action rather than piece-meal litigation in the context of separate actions; (d) the resolution
27 of litigation in a single forum will avoid the danger and resultant confusion of possible
28 inconsistent determinations; (e) the prosecution of separate actions would create the risk of

1 inconsistent or varying adjudications with respect to individuals pursuing claims against
2 defendants which would establish incompatible standards of conducts for defendants; (f)
3 defendants have acted and will act on grounds applicable to all class members, making final
4 declaratory and injunctive relief on behalf of all members necessary and appropriate; and (g)
5 questions of law and/ or fact common to members of the class especially on issues of
6 liability predominate over any question, such as that of individuals damages that will effect
7 individual class members.

8 III. FACTS

9
10 41. Beginning in 2006, all Defendants participated in a conspiracy to gain control of various
11 Homeowner Associations (HOA) boards of directors in order to steer construction defect
12 suits to attorney co-conspirators and then award the subsequent construction work to
13 preferred construction contractors whom were also part of the conspiracy.

14 42. Defendants Leon J. Benzer, Darryl Scott Nichols, Marcella Z. Triana, Angela Esparza, Mary
15 Ann Watts, Deborah Genato, Nancy Quon, David Amesbury, Daniel J. Solomon, Denise
16 Keser, Silver Lining Construction, Platinum Community Services, HOA Defendants, Roe
17 Property Management Companies XI-XX, Doe Consirators XXI-XXX, Does XXXI-XL, and
18 Roe Corporations XLI-L (hereinafter sometimes referred to as “co-conspirators”) set up a
19 variety of corporations or companies in order to purchase various units in the communities
20 known as Chateau Versailles, Sunset Cliffs, Palmilla, Vistana, Terrasini, Chateau Nouveau,
21 Park Avenue, and Pebble Creek.

22
23 43. Co-conspirators would then transfer fractional interests to straw purchasers in order to allow
24 these purchasers to run for HOA board elections. Defendants Darryl Scott Nichols, Marcella
25 Z. Triana, Angela Esparza, Daniel J. Solomon, and Steven Wark (“hereinafter referred to
26 collectively as “Straw Purchaser Defendants”) were among the straw purchasers who ran for
27 HOA board elections.

28 44. The Straw Purchaser Defendants would then run for election to the HOA board at their

1 respective community, and once elected, breached their fiduciary duty to the homeowners
2 by accepting from co-conspirators compensation, gratuities and other remuneration that
3 improperly influenced, or reasonably appeared to influence, their decisions, resulting in a
4 conflict of interest. After being elected to the board and accepting payments from
5 co-conspirators, the Straw Purchaser Defendants then voted in a manner directed by and
6 favorable to the co-conspirators, including voting to hire a law firm and construction
7 company designated by the co-conspirators to handle legal and construction work at the
8 condominium.

9
10 45. Defendants David Amesbury and his law firm David C. Amesbury, Inc. then gave access to
11 the supposedly "legitimate" election ballots in order to further the conspiracy and manipulate
12 the outcome of the HOA board elections.

13 46. Once the board members were elected, they manipulated board votes in order to award
14 construction contracts to Silver Lining Construction, select Platinum Community Services
15 and Roe Property Management Companies XI-XX as property management companies, and
16 retain attorneys whom were also part of the conspiracy.

17 47. Defendants Mary Ann Watts, Deborah Genato, and Denise Keser were community and
18 property managers for the various communities and participated with the other co-
19 conspirators in the scheme to rig HOA board elections, select construction contracts, and
20 litigate construction defect lawsuits.

21
22 48. Co-conspirator Nancy Quon would then litigate alleged construction defect suits against the
23 contractors responsible for building the defective buildings then ultimately attempted to
24 settle out of court for millions of dollars ("Settlement Money").

25 49. Co-conspirators whom were on the HOA boards would then award construction contracts
26 to other co-conspirators, namely Leon J. Benzer and Silver Lining Construction.

27 50. Upon information and belief, Benzer and Silver Lining Construction would then do very
28 minor and superficial repairs on the home and distribute the Settlement Money to other co-

1 conspirators.

2 51. The Defendants there have interfered with the bonafide homeowners ability to resell their
3 homes.

4 52. Furthermore that all class members will be required, pursuant to NRS 40.688 to disclose all
5 aspects of the conspiracy, including the construction defect lawsuits, prior to sale of their
6 residences and that this will materially diminish the value of their home and cause the class
7 members pecuniary loss of at least 5% of the value of their homes.

8 53. Plaintiff Class Representative Kimberly Karol ("Karol") owns a condo in the community
9 known as Vistana.
10

11 54. As a result of Defendants' conspiracy, Karol's property value has been diminished by at
12 least 5%.

13 55. Plaintiff Louise Mumby ("Mumby") owns a condo in the community known as Chateau
14 Nouveau.

15 56. As a result of Defendants' conspiracy, Mumby's property value has been diminished by at
16 least 5%.

17 57. Doe Plaintiffs I-C own condos in either Chateau Versailles, Sunset Cliffs, Palmilla, Vistana,
18 Terrasini, Chateau Nouveau, Park Avenue, or Pebble Creek.

19 58. As a result of Defenants' conspiracy, Doe Plaintiffs I-C's property value has been
20 diminished by at least 5%.
21

22 **FIRST CAUSE OF ACTION**
(Declaratory Relief, as against all Defendants)

23 59. Plaintiff repeats and re-alleges each and every allegation contained in the preceding
24 paragraphs as though set forth herein, and further alleges, as follows.

25 60. That Plaintiffs and Defendants have a justiciable controversy concerning the conspiracy
26 committed by the Defendants.
27

28 61. That Plaintiffs and Defendant are adverse parties with adverse interests regarding said
controversy.

1 62. That the Plaintiffs have a legal interest in the aforementioned controversy.

2 63. That the issues in said controversy are ripe for judicial decision.

3 **SECOND CAUSE OF ACTION**

4 *(Intentional Interference with Prospective Economic Advantage, as against all Defendants)*

5 64. Plaintiff repeats and re-alleges each and every allegation contained in this Complaint, and
6 further allege as follows:

7 65. Plaintiffs have a prospective contractual relationship with any and all future potential
8 buyers of their Condo units.

9 66. Defendants knew or should have known that Plaintiffs would have a future interest in
10 selling or renting out their condo units.

11 67. That the Defendants intentionally harmed the Plaintiff by preventing the prospective
12 economic advantage by instituting construction defect lawsuits and thereby diminishing
13 the value of their property by at least 5%.

14 68. Defendant had no privilege or justification for instituting the construction defect law
15 suits.

16 69. That Plaintiffs have been harmed by the Defendant in that the value of their homes has
17 been diminished by at least 5% due to the instigation of the construction defect law suits.

18 70. As a direct and proximate result the Plaintiff has suffered damages in an amount in
19 excess of \$10,000.

20 71. As such, Plaintiffs are entitled to recover punitive damages in an amount to be
21 determined at trial.

22 72. The Plaintiffs has been required to retain an attorney and are entitled to an award of
23 attorneys' fees and costs incurred by the Plaintiffs as a result thereof.

24 /.../.../

25 /.../.../

26 /.../.../

27 /.../.../

THIRD CAUSE OF ACTION
(Civil Conspiracy, as against all Defendants)

73. Plaintiff repeats and re-alleges each and every allegation contained in this Complaint, and further allege as follows:

74. That Defendants took concerted action regarding the Condo units of the Plaintiffs.

75. That the Defendants intended to accomplish an unlawful objective which the Defendants knew would result in harm to the Plaintiffs.

76. As a direct and proximate result of the conspiracy by the Defendant, the Plaintiffs have suffered damages in an amount in excess of \$10,000.

77. As such, Plaintiffs are entitled to recover punitive damages in an amount to be determined at trial.

78. The Plaintiffs have been required to retain an attorney and are entitled to an award of attorneys' fees and costs incurred by the Plaintiffs as a result thereof.

FOURTH CAUSE OF ACTION
(Negligence, as against Platinum Community Services, Roe Property Management Companies XI-XX, and HOA Defendants)

79. Plaintiffs repeat and re-allege each and every allegation contained in this Complaint, and further alleges as follows:

80. Defendants Platinum Community Services, Roe Property Management Companies XI-XX, and HOA Defendants had a duty to act fairly and reasonably in all actions affecting their respective homeowners and units.

81. Defendants Platinum Community Services, Roe Property Management Companies XI-XX, and HOA Defendants breached this duty by participating in, and allowing others to participate in, a scheme to gain control of various Homeowner Associations (HOA) boards of directors in order to steer construction defect suits to attorney co-conspirators and then award the subsequent construction work to preferred construction contractors whom were also part of the conspiracy.

82. Defendants Platinum Community Services, Roe Property Management Companies XI-

1 XX, and HOA Defendants also had a duty to operate the HOA's business and financial
2 affairs with ordinary care, skill and prudence.

3 83. Again, Defendants Platinum Community Services, Roe Property Management
4 Companies XI-XX, and HOA Defendants breached this duty by participating in, and
5 allowing others to participate in, a scheme to gain control of various Homeowner
6 Associations (HOA) boards of directors in order to steer construction defect suits to
7 attorney co-conspirators and then award the subsequent construction work to preferred
8 construction contractors whom were also part of the conspiracy.

9
10 84. Defendants Platinum Community Services, Roe Property Management Companies XI-
11 XX, and HOA Defendants also had a duty to properly inform all homeowners and unit
12 owners that a construction defect litigation was being initiated.

13 85. Defendants Platinum Community Services, Roe Property Management Companies XI-
14 XX, and HOA Defendants breached this duty by failing to notify the Plaintiffs and
15 homeowners that a construction defect litigation was being initiated.

16 86. Defendants Platinum Community Services, Roe Property Management Companies XI-
17 XX, and HOA Defendants negligence was the actual and proximate cause of Plaintiffs'
18 damages, which are in excess of \$10,000.

19 87. The Plaintiffs have been required to retain an attorney and are entitled to an award of
20 attorneys' fees and costs incurred by the Plaintiffs as a result thereof.
21

22 **FIFTH CAUSE OF ACTION**

23 *(Alter Ego, as against Defendants Leon J. Benzer, Mary Ann Watts, Deborah Genato, Denise*
24 *Keser, Silver Lining Construction, Platinum Community Services, Roe Property Management*
Companies XI-XX, Doe Conspirators XXI-XXX, Does XXXI-XL, David Amesbury, and David
C. Amesbury, Inc.)

25 88. Plaintiffs hereby incorporate and re-allege every allegation contained in this Complaint
26 and further allege, as follows:

27 89. That at the time of the incidents alleged in Plaintiffs' Complaint, Defendants Leon J.
28 Benzer and Silver Lining Construction were in fact one and the same.

- 1 90. That there is and was such unity of interest and ownership between Defendants Leon J.
2 Benzer and Silver Lining Construction that one was inseparable from the other.
- 3 91. That Defendant Leon J. Benzer, at all times pertinent hereto, treated Silver Lining
4 Construction as his alter ego without regard to corporate formality and intended to use
5 the moneys collected for both Silver Lining Construction's use and personal use.
- 6 92. That adherence to the fictitious separation between Leon J. Benzer and Silver Lining
7 Construction would sanction a fraud and promote injustice.
- 8 93. That the named Defendants have failed to keep the necessary corporate formalities,
9 including regular meetings and elections, corporate resolutions, corporate bylaws,
10 adequate capital, adequate insurance, etc., required to maintain the individual integrity of
11 Silver Lining Construction.
- 12 94. That Plaintiffs are entitled to damages personally against Leon J. Benzer, as well as from
13 Silver Lining Construction, in the above mentioned amounts as pled in this Complaint.
- 14 95. That at the time of the incidents alleged in Plaintiffs' Complaint, Defendants Leon J.
15 Benzer, Mary Ann Watts, Deborah Genato, Denise Keser, Doe Conspirators XXI-XXX,
16 Does XXXI-XL, Platinum Community Services, and Roe Property Management
17 Companies XI-XX were in fact one and the same.
- 18 96. That there is and was such unity of interest and ownership between Defendants Leon J.
19 Benzer, Mary Ann Watts, Deborah Genato, Denise Keser, Doe Conspirators XXI-XXX,
20 Does XXXI-XL, Platinum Community Services, and Roe Property Management
21 Companies XI-XX that one was inseparable from the others.
- 22 97. That Defendants Leon J. Benzer, Mary Ann Watts, Deborah Genato, Denise Keser, Doe
23 Conspirators XXI-XXX, and Does XXXI-XL, at all times pertinent hereto, treated
24 Platinum Community Services and Roe Property Management Companies XI-XX as
25 their alter ego without regard to corporate formality and intended to use the moneys
26 collected for both Platinum Community Services and Roe Property Management
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- 1 Companies XI-XX's use and personal use.
- 2 98. That adherence to the fictitious separation between Leon J. Benzer, Mary Ann Watts,
3 Deborah Genato, Denise Keser, Doe Conspirators XXI-XXX, Does XXXI-XL, Platinum
4 Community Services, and Roe Property Management Companies XI-XX would sanction
5 a fraud and promote injustice.
- 6 99. That the named Defendants have failed to keep the necessary corporate formalities,
7 including regular meetings and elections, corporate resolutions, corporate bylaws,
8 adequate capital, adequate insurance, etc., required to maintain the individual integrity of
9 Platinum Community Services and Roe Property Management Companies XI-XX .
- 10 100. That Plaintiffs are entitled to damages personally against Leon J. Benzer, Mary Ann
11 Watts, Deborah Genato, Denise Keser, Doe Conspirators XXI-XXX, and Does XXXI-
12 XL, as well as from Platinum Community Services and Roe Property Management
13 Companies XI-XX, in the above mentioned amounts as pled in this Complaint.
- 14 101. That at the time of the incidents alleged in Plaintiffs' Complaint, Defendants David
15 Amesbury and David C. Amesbury, Inc. were in fact one and the same.
- 16 102. That there is and was such unity of interest and ownership between Defendants David
17 Amesbury and David C. Amesbury, Inc. that one was inseparable from the others.
- 18 103. That Defendant David Amesbury, at all times pertinent hereto, treated David C.
19 Amesbury, Inc. as his alter ego without regard to corporate formality and intended to use
20 the moneys collected for both David C. Amesbury, Inc.'s use and personal use.
- 21 104. That adherence to the fictitious separation between Defendants David Amesbury and
22 David C. Amesbury, Inc. would sanction a fraud and promote injustice.
- 23 105. That the named Defendants have failed to keep the necessary corporate formalities,
24 including regular meetings and elections, corporate resolutions, corporate bylaws,
25 adequate capital, adequate insurance, etc., required to maintain the individual integrity of
26 David C. Amesbury, Inc.
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1 106. That Plaintiffs are entitled to damages personally against David Amesbury, as well as
2 from David C. Amesbury, Inc., in the above mentioned amounts as pled in this
3 Complaint.

4 107. The Plaintiffs have been required to retain the services of Callister + Associates to
5 prosecute this action, and Plaintiffs are therefore entitled to recover his reasonable
6 attorney's fees and costs of court for having to bring this action.
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8
9 **WHEREFORE**, Plaintiff prays for the following relief:

- 10 1. For Declaratory Judgment as set forth in the Complaint;
- 11 3. For general damages in an amount in excess of \$10,000.00;
- 12 4. For special damages in an amount in excess of \$10,000.00;
- 13 5. For punitive damages in excess of \$10,000.00;
- 14 6. For reasonable attorney's fees;
- 15 7. For costs incurred in the pursuit of this act; and
- 16 8. For such other further relief as the court deems proper.
17

18 DATED: This 6th day of March, 2012.
19

20 **CALLISTER + ASSOCIATES, LLC**

21 

22 **MATTHEW Q. CALLISTER, ESQ.**

23 Nevada Bar No.: 001396

24 **MITCHELL S. BISSON, ESQ**

25 Nevada Bar No.: 011920

26 823 Las Vegas Blvd. South

27 Las Vegas, Nevada 89101
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