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7 Attorneys for Third Party Defendant  
Liberty Constructors

8 Superior Court of Arizona

9 Maricopa County

10  
11 Gallery Community Association, an  
12 Arizona non-profit corporation,

13 Plaintiff,

14 vs.

15  
16 K. Hovnanian at Gallery, LLC, an Arizona  
limited liability company; et al.

17 Defendants.  
18

19  
20 And related third-party claims.  
21

No. CV2020-008714

**Third Party Defendant Liberty  
Constructors, LLC's Notice of Non-  
Parties at Fault**

(Honorable Katherine Cooper)

22 Third-Party Defendant Liberty Constructors, LLC (“Third-Party Defendant”), by  
23 and through counsel undersigned, pursuant to Arizona Rule of Civil Procedure 26(b)(5),  
24 A.R.S. §12- 2506(B), *LyphoMed, Inc. v. Superior Court*, 172 Ariz. 423, 427-28, 837 P.2d 1158,  
25  
26

1 1162-63 (App. 1992), and *Bridgestone/Firestone North America Tire, LLC v. Naranjo*, 206 Ariz.  
2 447, 451, 79 P.3d 1206, 1210, fn. 2 (App. 2003), hereby provides its Notice of Non-Parties  
3 at Fault in the above-referenced matter:

4 1. Any individuals or entities who performed repair, maintenance, warranty or  
5 other work at the project including but not limited to any personnel, consultants and/or  
6 contractors hired by Plaintiff and/or Defendants/Third-Party Plaintiffs;

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8 2. Any municipal, county, state and/or other inspector who performed  
9 inspections of the project and approved the work as complete and in compliance with  
10 applicable codes and standards;

11  
12 3. Any other trades who did not complete their work, damaged or removed the  
13 work completed by Third-Party Defendant or otherwise caused the damage complained of;

14  
15 4. Any persons or entities who damaged, removed or altered either  
16 Defendants/Third-Party Plaintiffs' or Third-Party Defendant's work while investigating or  
17 testing portions of the project prior to or during the course of litigation;

18  
19 5. All architects, engineers, soils engineers, and design professionals, responsible  
20 for the testing and/or design development of the plans and specifications for the project to  
21 the extent that any damages alleged to Third-Party Defendant relates to design or  
22 specification issues;

23  
24 6. All Plaintiff's employees, occupants and/or service personnel who may have  
25 caused or contributed to the damage about which Plaintiff complains; and  
26

1           7.     Any and all contractors, experts, laborers or other personnel, who may have  
2 been hired by Plaintiff and/or Defendants/Third-Party Plaintiffs, who did any destructive  
3 or invasive testing at the project at any time to date, with respect to litigation or otherwise.  
4 If such testing took place, these persons, physical invasions and destruction of the premises  
5 likely caused damage(s). Any and all claims for damages made by the Plaintiff and/or  
6 Defendants/Third-Party Plaintiffs will likely involve a request for compensation for  
7 damages that will include the damages caused by the contractor's experts, laborers or other  
8 personnel that did invasive testing and/or destructive testing, if such testing took place. The  
9 full extent of the damages caused by the contractors, experts, laborers or other persons hired  
10 by Plaintiff and/or Defendants/Third-Party Plaintiffs with respect to the destructive and/or  
11 invasive testing is unknown to Third-Party Defendant at this time but will be supplemented  
12 as discovery continues.  
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16           In addition, Third-Party Defendant hereby serves notice that it may argue additional  
17 non-parties are at fault to the extent such non-parties caused or contributed to damages  
18 alleged by Plaintiff and/or Defendants/Third-Party Plaintiffs, the jury must apportion fault  
19 to such non-parties and Third-Party Defendant cannot be held liable for such fault or related  
20 damages. Third-Party Defendant notifies the parties and this Court that it may argue any or  
21 all of the above non-parties are responsible for all or some of the damages alleged by Plaintiff  
22 and/or Defendants/Third-Party Plaintiffs.  
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1 Dated on August 16, 2021.

Shorall McGoldrick Brinkmann

2 By /s/ Jason Boblick

3 Tom Shorall

4 Jason J. Boblick

5 Attorneys for Third Party Defendant

Liberty Constructors

6 Mailing Certificate

7 The foregoing filed with AZTurboCourt

8 And copies emailed and mailed on August 16, 2021, to:

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By: /s/ Diane Scheetz