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Attorneys for the Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

GALLERY COMMUNITY
ASSOCIATION, an Arizona non-profit
corporation,

Plaintiff,

v.

K. HOVNANIAN AT GALLERY, LLC,
an Arizona limited liability company; et
al.

Defendants.

K. HOVNANIAN AT GALLERY, LLC,
an Arizona limited liability company; et
al.

Third-Party Plaintiffs,

v.

ARTISTIC STAIRS, LTD., an Arizona
limited liability company; et al.

Third-Party Defendants.

Case No. CV2020-008714

Assigned to Hon. Michael Kemp

**AFFIDAVIT OF STEFEN GUSTAFSON
IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANTS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT REGARDING CLAIMS OF
UNSUPPORTED DEFECTS**

1 I, Stefen Gustafson, swear and affirm the following, and would testify to the same
2 under oath in Court:

3
4 1. I am over 18 years old and I have personal knowledge of the facts stated in
5 this affidavit.

6 2. I have approximately 38 years of experience in the construction industry,
7 including practicing in the field of architecture for eight years, and as a general contractor
8 with a focus on repairs and reconstruction of residential buildings for 29 years. I have been
9 qualified as an expert witness in these fields in Arizona and United States federal courts on
10 many occasions. A copy of my professional CV is attached as Exhibit A to this affidavit.

11 3. I am the owner of Nautilus General Contractors, Inc. ("Nautilus Contractors")
12 and Nautilus Building Consultants, Inc. ("Nautilus Consultants"). Nautilus Contractors
13 performs destructive testing, reconstruction, and repair work. Nautilus Consultants
14 performs expert consulting work, including cost of repair estimating.

15 4. The Plaintiff in the above-captioned matter retained Nautilus Consultants to
16 perform a cost of repair estimate for the scope of repairs for the Gallery community
17 ("Project") specified by the Plaintiff's forensic engineering experts, SBSA, LLC, a Charles
18 Taylor Company ("SBSA"). For the discovery phase of this case, Nautilus Contractors
19 performed destructive testing and reconstruction, as directed by SBSA.

20 5. SBSA identified a number of construction defects and deficiencies which
21 require removal and replacement of the stucco system in certain areas in order to implement
22 repairs.

23 6. These defects and deficiencies identified by SBSA include Non-Compliant
24 Weather Resistive Barrier ("WRB") for Stucco System and Non-Compliant EPS Foam
25 Board ("EPS Foam").

26 7. For purposes of this analysis, I understand that these WRB and EPS Foam
27 deficiencies require removal and replacement of the stucco only in locations where OSB
28 sheathing, or other solid substrates, such as wood framing, are present beneath the stucco.

1 SBSA has identified the locations where OSB sheathing is present beneath the stucco on an
2 elevation drawing for a typical Project building, marked as red shading on the attached
3 drawing, Exhibit B to this affidavit.

4 8. In addition to the WRB and EPS Foam defects discussed above, SBSA has
5 also identified the following defects and deficiencies, all of which require removal and
6 replacement of the stucco system in certain specific areas:

- 7 • Civil 2.0 – Non-Compliant Cross Slope of Sidewalks (requires new stair landing
8 heights).
- 8 • Building Envelope 1.0A – Missing Weep Mechanisms in Stucco (requires stucco
9 removal/replacement at all window, sliding door, swinging door, and garage door
10 heads, as well as all soffits).
- 10 • Building Envelope 1.0D – Non-Compliant Slope of Horizontal Stucco Surfaces
11 (this includes all parapets).
- 11 • Building Envelope 1.0E – Deficient Self-Adhered Membrane under Horizontal
12 Stucco System.
- 12 • Building Envelope 1.0F – Missing Control/Movement Joints.
- 12 • Building Envelope 2.0A – Missing Sheet Metal Flashing at Window Heads.
- 13 • Building Envelope 2.0B – Non-Compliant Flashing to Stucco Interface.
- 13 • Building Envelope 2.0C – Non-Compliant Isolation Joints at Dissimilar Materials

14 9. These defects require removal and replacement of specific portions of the
15 stucco on every exterior wall plane on the Project in order to repair or integrate the
16 underlying or adjacent conditions. The areas of these additional stucco repairs, outside the
17 limits of the OSB sheathing area, are highlighted in pink on the attached drawing, Exhibit
18 B.

19 10. In each location where stucco must be removed and replaced in order to repair
20 adjacent or underlying conditions, the removal results in the destruction of the underlying
21 WRB and EPS Foam board, which must also be removed and replaced.

22 11. If the stucco were to be removed and replaced only in the locations marked
23 with shading and highlighting on Exhibit B, a section of stucco approximately 12-18 inches
24 wide around each repair must be removed and replaced in order to accommodate the repair
25 and re-integrate the new underlying WRB building paper and EPS Foam with the existing
26 building paper and EPS Foam beneath adjacent stucco areas.

27 12. The amount of stucco required to be removed and replaced due to the WRB
28 and EPS Foam deficiencies at the areas over OSB sheathing (marked in red shading on

1 Exhibit B), together with the extensive amount of additional stucco removal and
2 replacement required in areas outside the OSB sheathing areas (highlighted in pink on
3 Exhibit B) would leave only small, discrete areas of original stucco remaining in place.

4 13. In my professional experience, it would not be practical, reasonable, or
5 efficient to leave only these patches of stucco in place while implementing the repairs
6 discussed above. In addition to re-integrating the new WRB building paper and EPS Foam
7 with the existing WRB and EPS Foam under adjacent stucco areas, the patchwork stucco
8 repair approach would require the repair contractor to texture coat and paint the entire wall
9 plane on each wall to match the existing stucco patches to the newly-replaced stucco.

10 14. From a constructability perspective, patching in the numerous pre-existing
11 stucco areas with the areas needing stucco repairs (marked in shading and highlighting on
12 Exhibit B) would be labor intensive, time consuming, expensive, and less efficient than
13 simply removing all of the stucco in one effort, and making all of the stucco repairs together.

14 15. In my professional experience, I do not believe that any experienced and
15 reasonably prudent contractor would be willing to warrant the stucco repairs in the absence
16 of completely removing and replacing the stucco system, given the volume of areas needing
17 repairs and the amount of patching and integrating into the existing systems that a
18 patchwork approach would require.

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

Executed on November 4, 2022, in San Diego, California.

By: 
Stefan Gustafson, Affiant

STATE OF CA)
COUNTY OF San Diego)

Subscribed and sworn to before me on this 4th day of November, 2022, by Stefan Gustafson. Witness my hand and official seal. My commission expires: 3/26/2023

[SEAL]

Notary Public, State of CA
Cindy Stempieri



EXHIBIT 2A



NAUTILUS

Reconstruction
Contracting & Consulting

STEFEN E. GUSTAFSON – Curriculum Vitae

SUMMARY

Stefen Gustafson is a licensed general contractor, general engineering contractor and registered architect with approximately 37 years of experience in the building industry. He has developed a specialty in building, structural, civil and grading reconstruction and repairs and has been providing expert testimony since 1994 in the areas of cost estimating, general contracting and architecture.

WORK EXPERIENCE

2002 - Present	Nautilus General Contractors, Inc.	<i>San Diego and Los Angeles, CA</i>
2002 - Present	Nautilus Building Consultants, Inc. <i>President/ Owner</i>	<i>& Tempe, AZ</i>

Founded company to focus on the reconstruction, repair and maintenance of existing structures and properties. Nautilus Building Consultants, Inc.'s focus is on a fee-based forensic consulting work, including cost estimating, construction management and expert testimony.

1994 - 2002	Valentine Construction Inc. <i>Vice President/Partner</i>	<i>California, Arizona, Nevada & Colorado</i>
1995 - 2002	Valentine Professional Services Inc. <i>President/Partner</i>	

Participated as an owner in the general management of a general contracting business specializing in the reconstruction, repair and maintenance of existing buildings and properties. Operated ten branch construction offices in the states of California, Arizona, Nevada and Colorado.

Oversaw the general management of all fee-based professional services, which included forensic/problem analysis, architectural design and specification, construction cost estimating and expert witnessing. Responsibilities included administration of staff and operational issues.

Reconstruction
Contracting & Consulting
California Lic. 807552
Arizona Lic. 173528, 173529, 236107
Nevada Lic. 58265, 73819
New Mexico Lic. 379523
Utah Lic. 9873226-5501

Nautilus General Contractors, Inc.
Nautilus Building Consultants, Inc.

Phone 858.939.1344
8033 Vickers Street
San Diego, CA 92111
nautilusgeneral.com

WORK EXPERIENCE - CONTINUED

- 1993 - 1994 **Hoyco Construction Inc.** *San Diego, CA*
Vice President/General Manager
- Managed the day-to-day operations for a general contracting firm specializing in the reconstruction and repair of existing buildings and properties, including insurance losses, construction failures, deficiencies, moisture intrusion, site drainage and soils stabilization.
- 1992-1993 **The Balcor Company** *Chicago, IL*
A Real Estate Subsidiary of American Express
Graduate School Intern/Investment Research Group
- Assisted in evaluating properties in a \$1.2 billion syndicated debt portfolio for determination of loan loss reserves. Conducted a research study analyzing the practices of national property managers.
- 1991-1992 **The John Buck Company** *Chicago, IL*
Corporate Real Estate Services
Graduate School Intern/Analyst
- Performed and analyzed economic real estate research in over seventy metropolitan U.S. markets for corporate clients. Performed comparative financial analyses of commercial real estate leases.
- 1984 - 1991 **Deems Lewis McKinley Architects** *San Diego, CA*
Senior Project Manager/Architect
- Responsible for project negotiation, budgeting, scheduling, planning, and schematic design, as well as preparation of construction documents, bidding and construction administration. Arbitrated disputes, provided solutions and negotiated change orders for problems arising out of project construction.

EDUCATION

J.L. Kellogg Graduate School of Management
Northwestern University, Chicago, Illinois
Master of Business Administration, 1993

California Polytechnic State University, San Luis Obispo, California
Bachelor of Architecture, 1984

University of Copenhagen, Denmark
International study program in architecture, 1982 - 1983

Stefen E. Gustafson – Continued

Page 3 of 3

PROFESSIONAL CERTIFICATIONS Licensed General Building Contractor, States of California, Arizona, Nevada, New Mexico & Utah
Licensed General Engineering Contractor, States of California, Arizona & Nevada
Licensed Roofing Contractor, State of California
Licensed Carpentry Contractor, State of Nevada (2010-2014)
Licensed Painting and Decorating Contractor, State of Nevada (2010-2014)
Licensed Roofing Contractor, State of Nevada (2010-2014)
Licensed Waterproofing Contractor, State of Nevada (2010-2014)
Former Responsible Managing Officer, Valentine Construction Inc.'s General Contractor's Licenses, States of California, Arizona & Nevada
Registered Architect, States of California, Arizona, Nevada
Former Registered Architect, State of Colorado
National Council of Architectural Registration Boards - Certified Architect

PROFESSIONAL AFFILIATIONS American Institute of Architects
Community Association Institute
Arizona Association of Community Managers
California Association of Community Managers

EXHIBIT 2B

