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9 Building Co., Inc.

10 **SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **COUNTY OF MARICOPA**

12 GALLERY ASSOCIATION, an Arizona non-
13 profit corporation,

14 Plaintiff,

15 v.

16 K. HOVNANIAN AT GALLERY, LLC, an
17 Arizona limited liability company; K.
18 HOVNANIAN ARIZONA OPERATIONS, LLC,
19 an Arizona limited liability company; K.
20 HOVNANIAN DEVELOPMENTS OF
21 ARIZONA, INC., an Arizona corporation; K.
22 HOVNANIAN COMPANIES OF ARIZONA,
23 LLC, an Arizona limited liability company;
24 JOHN DOES I-X AND JANE DOES I-X;
25 WHITE CORPORATIONS I-X; BLACK
PARTNERSHIPS I-X; AND GRAY LIMITED
LIABILITY COMPANIES I-X,

Defendants.

K. HOVNANIAN AT GALLERY, LLC, an
Arizona limited liability company; K.
HOVNANIAN ARIZONA OPERATIONS,
LLC, an Arizona limited liability company; K.
HOVNANIAN DEVELOPMENTS OF
ARIZONA, INC., an Arizona corporation; K.
HOVNANIAN COMPANIES OF ARIZONA,
LLC, an Arizona limited liability company,

Third-Party Plaintiffs,

NO. CV2020-008714

**THIRD-PARTY DEFENDANT
LEBLANC BUILDING CO., INC.'S
CONTROVERTING STATEMENT OF
FACTS IN SUPPORT OF ITS REPLY
OF JOINDER IN THIRD-PARTY
DEFENDANTS DESERT VISTA, INC.
AND RENCO, LLC'S JOINT MOTION
FOR SUMMARY JUDGMENT**

(Assigned to the Honorable Michael Kemp)

1 v.

2 CHAS ROBERTS AIR CONDITIONING, INC.,
3 an Arizona corporation; DESERT VISTA, INC.,
4 an Arizona corporation; GOTHIC
5 LANDSCAPING, INC., a California
6 corporation; HOME BUILDERS SITE
7 SERVICES OF ARIZONA, LLC, an Arizona
8 limited liability company; LEBLANC
9 BUILDING CO., INC., an Arizona corporation;
10 LIBERTY CONSTRUCTORS, LLC, an Arizona
11 limited liability company DBA LIBERTY
12 ARIZONA; RENCO LLC, an Arizona limited
13 liability company dba RENCO ROOFING; R/S
14 SERVICE & SUPPLY, INC., an Arizona
15 corporation; SARGON MASONRY
16 CONSTRUCTION, LLC, an Arizona limited
17 liability company; and DOES 1-50,

18 Third-Party Defendants.

19 Third-Party Defendant Leblanc Building Co., Inc.’s Controverting Statement of
20 Facts in support of its Reply to Joinder in Third-Party Defendants Desert Vista, Inc. And Renco,
21 LLC’s Joint Motion for Summary Judgment.

22 **CONTROVERTING STATEMENT OF FACTS**

23 1. Regarding the decks, Mr. Fronapfel testified based on his review, that the
24 slope issue was more of a flashing edge issue, where the flashing and the waterproofing were
25 creating the lip, not the framing. *See* Deposition of Edward Fronapfel, at p 113:8-12 attached as
26 Exhibit 1.

2. Mr. Fronapfel further testifies that he believed based on his review the
waterproofing was the issue and an edge condition issue versus a frame issue. *Id* at p 113:13-17.

DATED this 28th day of November, 2022.

JONES, SKELTON & HOCHULI P.L.C.

By /s/ Michael A. Ludwig

Michael A. Ludwig
Attorneys for Third-Party Defendant LeBlanc
Building Co., Inc.

1 ORIGINAL of the foregoing electronically filed
2 this 28th day of November, 2022.

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1 (Discussion off the record.)

2 Q. (BY MR. LUDWIG) Ed, do you see that sentence
3 that's highlighted?

4 A. I do.

5 Q. And so -- and my understanding is you believe
6 that the decks were framed with a 2 percent slope. But
7 what is that based on?

8 A. When we put the 4-foot level on these, we did
9 have some slope. And what appeared to be happening --
10 and we put photos in -- was more of a flashing edge
11 issue, where the flashing and the waterproofing were
12 creating the lip, not the framing.

13 So I do believe, based at least on my review,
14 that the 2 percent was more likely than not framed in,
15 and that the waterproofing was the issue. And the
16 flashing. But it was an edge condition issue versus a
17 frame issue.

18 MR. LUDWIG: That's all I have for you.
19 Thank you, sir.

20 (Break from 1:01 p.m. to 1:11 p.m.)

21 EXAMINATION

22 BY MR. BOBLICK:

23 Q. Good afternoon, sir. My name's Jason
24 Boblick. I represent Liberty Constructors. Liberty
25 did the foundation, PT slab, and flatwork. So I just