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11 *Attorneys for the Plaintiff*

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

14 GALLERY COMMUNITY
15 ASSOCIATION, an Arizona non-profit
16 corporation,
17 Plaintiff,
18 vs.

19 K. HOVNANIAN AT GALLERY, LLC,
20 an Arizona limited liability company; et
21 al.
22 Defendants.

23 K. HOVNANIAN AT GALLERY, LLC,
24 an Arizona limited liability company; et
25 al.
26 Third-Party Plaintiffs,
27 v.

28 ARTISTIC STAIRS, LTD., an Arizona
 limited liability company; et al.
 Third-Party Defendants.

Case No. CV2020-008714

Assigned to Hon. Michael Kemp

**PLAINTIFF'S RESPONSE AND
OBJECTION TO THIRD-PARTY
DEFENDANTS DESERT VISTA, INC.
AND RENCO, LLC DBA RENCO
ROOFING'S JOINDER IN DEFENDANT
KHOV'S MOTIONS FOR SUMMARY
JUDGMENT REGARDING EACH OF
PLAINTIFF'S CAUSES OF ACTION
AND CLAIMS OF UNSUPPORTED
DEFECTS**

1 Plaintiff, Gallery Community Association (“Plaintiff” or “Association”), by and
2 through undersigned counsel, objects and responds as follows to Third-Party Defendants
3 Desert Vista, Inc. and Renco, LLC dba Renco Roofing’s (collectively “Third-Party
4 Defendants”) Joinder in Defendants/Third-Party Plaintiffs K. Hovnanian at Gallery, LLC
5 and K. Hovnanian Arizona Operations, LLC’s (collectively “KHov”) Motion for
6 Summary Judgment Regarding Each of Plaintiff’s Causes of Action and Motion for
7 Partial Summary Judgment Regarding Claims of Unsupported Defects (collectively
8 “*Motions*”) both filed on September 30, 2022.

9 Plaintiff objects to Third-Party Defendants’ Joinder on the grounds that it is
10 untimely as it was filed on December 13, 2022, nearly two and a half months after the
11 Motions were filed and the deadline of September 30, 2022 for filing dispositive motions
12 had passed in violation of Rule 56(b)(3). Plaintiff is prejudiced by the late filing in that it
13 did not have sufficient time to prepare a response per Rule 56(c)(2). Plaintiff further
14 objects to the Joinder on the grounds that it fails to include a separate statement of specific
15 facts relied on in support thereof as required by Rule 56(c)(3)(A).

16 In response to the Joinder, Plaintiff hereby incorporates by this reference the
17 following:

18 Plaintiff’s Response in Opposition to Defendants’ Motion for Partial Summary
19 Judgment Regarding Claims of Unsupported Defects filed on November 7, 2022;

20 Plaintiff’s Response to Defendant’s Separate Statement of Facts in Support for
21 Summary Judgment and Plaintiff’s Controverting Statement of Facts in Opposition to
22 Defendants’ Motion for Partial Summary Judgment Regarding Claims of Unsupported
23 Defects filed on November 7, 2022 and all Exhibits thereto;

24 Plaintiff’s Response in Opposition to Defendants’ Motion for Summary Judgment
25 Regarding Each of Plaintiff’s Causes of Action filed on November 9, 2022; and

26 Plaintiff’s Response to Defendant’s Statement of Facts in Support for Defendants’
27 Motion for Summary Judgment Regarding Each of Plaintiff’s Causes of Action, and
28 Plaintiff’s Controverting Statement of Facts in Opposition to Defendants’ Motion for

1 Summary Judgment Regarding Each of Plaintiff's Causes of Action filed on November 9,
2 2022 and Exhibits thereto.

3
4 RESPECTFULLY SUBMITTED this 30th day of December, 2022.

5 BURG | SIMPSON | ELDREDGE | HERSH | JARDINE PC

6 By: /s/ Penny J. Manship

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12
13 The foregoing E-FILED via AZTurboCourt
14 Electronic filing system and E-MAILED this
15 30th day of December 2022 to:

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22 *Hovnanian Companies of Arizona, LLC*

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115 /s/ Jessica Harmon
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