

EXHIBIT 8



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March 4, 2016

Via U.S. Mail

Crum & Forster Specialty
Attn: Claims Department
P.O. Box 1973
305 Madison Ave.
Morristown, NJ 07961

Re: Notice of Claim: Tuscan Village of St. Augustine
Your Insured: Acacia Roofing Company, Inc.
Additional Insured: KB Home

Dear Sir or Madame:

Please be advised that this firm is counsel for KB Home Jacksonville LLC (“KB Home”), the general contractor for the construction of the Tuscan Village of St. Augustine Project in St. Johns County, Florida (“Project”). Tuscan Village of St. Augustine Homeowner’s Association has filed suit against KB Home alleging that, among other things, your insured’s defective work allowed water to intrude into the homes, causing damage to building components and other property. A copy of the complaint is attached hereto as Exhibit A.

KB Home entered into a subcontract with Acacia Roofing Company, Inc. (“Acacia”) to perform work at the Project. Consequently, KB Home filed a Third Party Complaint against Acacia for damages in connection with the allegations raised in the HOA Complaint and for breach of its obligations under Fla. Stat. § 553.84. A copy of the Third Party Complaint is attached hereto as Exhibit B.

Pursuant to the terms of that subcontract, Acacia was required to name KB Home as an additional insured on its general liability insurance. As you are aware, Crum & Forster Specialty (“Crum & Forster”) insures Acacia.

As such, KB Home hereby demands that Crum & Forster defend and indemnify it from and against all claims and damages arising out of Acacia’s work. In addition, KB Home requests that you provide it complete copies of all insurance policies issued to Acacia by Crum & Forster, affiliated companies, subsidiaries, or divisions for the period of January 2006 to the present.

March 4, 2016
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If you would like to contact me about the claim, you may reach me by telephone or email listed above.

I look forward to hearing from you.

Regards,

A handwritten signature in black ink that reads "Eric M. Gold". The signature is written in a cursive style with a large, stylized "E" and "G".

Eric M. Gold

Enclosures

EXHIBIT A

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT IN &
FOR ST. JOHNS COUNTY, FLORIDA

TUSCANY VILLAGE OF ST. AUGUSTINE
HOMEOWNER'S ASSOCIATION,
a not-for-profit Florida corporation,

Plaintiff,

vs.

KB HOME JACKSONVILLE, LLC,
a Florida corporation,

Defendant.

Case No: CA14-0808

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE OF COURT TO FILE
SECOND AMENDED COMPLAINT**

PLAINTIFF, TUSCANY VILLAGE OF ST. AUGUSTINE HOMEOWNER'S ASSOCIATION (hereafter referred to as "TUSCANY"), by and through its undersigned Counsel, and with the consent of opposing counsel, and pursuant to Rule 1.190(a), *Florida Rules of Civil Procedure*, hereby moves for entry of an order granting leave to file a Second Amended Complaint which is attached to this motion as **Exhibit "A,"** and states as follows:

1. After the Amended Complaint was filed, TUSCANY retained two companies to perform extensive testing and investigation.
2. The testing revealed additional problems with portico roofs, flashings, sealants, paint, and caulking.
3. The Second Amended Complaint addresses the additional issues.

4. Both the Second Amended Complaint and this Motion to Amend have been reviewed by opposing counsel who has no objection to either the Motion or the Second Amended Complaint.
5. An agreed to Order is attached for the Court's consideration as **Exhibit "B"**.

WHEREFORE, Plaintiff moves for entry of an order granting leave of this Court to file the attached Second Amended Complaint.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of April, 2015, I electronically filed the above and foregoing with the Clerk of the Court by using the Florida E-Portal System, which will send a notice of electronic filing and a true and accurate copy of the foregoing to the following:

Charles J. Cacciabeve, Esquire
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orlecf@cfdom.net
Attorneys for Defendant,
KB Home Jacksonville, LLC



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ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT IN &
FOR ST. JOHNS COUNTY, FLORIDA

TUSCANY VILLAGE OF ST. AUGUSTINE
HOMEOWNER'S ASSOCIATION,
a not-for-profit Florida corporation,

Case No.: CA14-0808

Plaintiff,

vs.

KB HOME JACKSONVILLE, LLC,
a Florida corporation,

Defendant.

SECOND AMENDED COMPLAINT

COMES NOW, the PLAINTIFF, TUSCANY VILLAGE OF ST. AUGUSTINE HOMEOWNER'S ASSOCIATION, INC., and its BOARD OF DIRECTORS (hereinafter "TUSCANY"), by and through its undersigned Counsel, and sues the DEFENDANT, KB HOME JACKSONVILLE, LLC (hereinafter "KB"), and alleges:

GENERAL ALLEGATIONS

1. This is an action for damages greater than Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs, and attorney fees.
2. TUSCANY is located in St. Johns County, Florida, and therefore venue is proper in St. Johns County.
3. KB is a Florida Corporation, duly authorized to conduct business in Florida, with its principal place of business in Jacksonville, Duval County, Florida.
4. KB was the builder and developer of Tuscan Village of St. Augustine, a townhome community located in St. Augustine, St. Johns County, Florida.



5. As builder and developer of Tuscan Village, KB drafted and recorded the covenants that formed TUSCANY. **(A copy of the “Declaration of Covenants, Conditions, and Restrictions for Tuscan Village of St. Augustine, hereinafter referred to as “Covenants,” is attached as Exhibit A)**

6. Pursuant to Chapters 617 and 720, Florida Statutes, KB created TUSCANY as a non-profit corporation. (Declaration of Covenants, Conditions, and Restrictions for Tuscan Village of St. Augustine, p. 1, July 6, 2006.)

7. KB created TUSCANY to “have the meaning set forth in Section 720.301(9), Florida Statutes.” (Id. at 2.)

8. The Covenants “delegated and assigned [to TUSCANY] certain powers and duties of operation, administration, maintenance and repair of portions of Tuscan Village of St. Augustine” (Id. at 1.)

9. Among the duties delegated to TUSCANY is providing “exterior maintenance at [TUSCANY’s] expense” to include: (1) paint; (2) “repair, replace and care for roofs, gutters, downspouts, and exterior building surfaces, including window and door trim” (Id. at 16.)

10. Article VIII of the Covenants lists “Common Structural Elements,” which include but are not limited to “[a]ll division walls between two (2) Townhomes beginning at the unfinished surface of each side of such wall,” and “[t]he entire roof of the Building, any and all roof support structures, and any and all appurtenances to such roof and roof support structures, including without limitation, the roof covering, roof trim and roof drainage fixtures.” (Id. at 21.)

11. Section 720.303(1), Florida Statutes, enumerates the “powers and duties” of “[a]n

association which operates a community as defined in s. 720.301.”

12. Under 720.303(1), Florida Statutes, such an association has a fiduciary duty to the members it serves.

13. The powers granted to such an association by Section 720.303(1) to fulfill its duties include, in pertinent part, the authority to “institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members, including, but not limited to . . . roof or structural components of a building”

14. By virtue of the fiduciary relationship created in Chapter 720.303(1) between the officers and directors of TUSCANY to the members it serves, and the authority to bring maintain actions in its name on behalf of its members concerning matters of common interest to the members, TUSCANY brings this lawsuit against KB on behalf of its members.

15. By virtue of KB creating TUSCANY to have the meaning “set forth in Section 720.301(9), Florida Statutes,” and relinquishing control of TUSCANY to the members other than KB, KB knew it was vesting TUSCANY with the aforementioned fiduciary duty and authority.

16. In addition to the statutory standing created by Section 720.301(9), TUSCANY has standing based on the recorded covenants.

17. Between June and August of 2013, The Touring Company, Inc. inspected the exterior of several buildings due to issues with water intrusion and damage attendant to water intrusion. **(A copy of the Touring Company, Inc. inspection report is attached as Exhibit B)**

18. The inspection, conducted by a Professional Engineer, revealed areas on each building showing imminent or substantial failure of the stucco.

19. The stucco failure included various levels of severity, including multiple hairline cracking, spider web cracking, and apparent water intrusion including buckling and separation of the base coat.

20. Many of the spider cracks appeared discolored and wet, indicating water intrusion at those sites caused by wind-driven rain getting behind the stucco.

21. The Engineer also observed horizontal cracks in buildings between windows with the cracks appearing at approximately the same height across various windows.

22. These horizontal cracks are excessive for the age of the building, and are caused by any of the following:

- a. Improper mixing of the material;
- b. Inadequate thickness of the scratch coat;
- c. Scratch coat may have dried too rapidly;
- d. Improper securing of the wire mesh in areas where it overlaps;
- e. Improper application of the stucco;
- f. Failing to provide for backer rod to separate dissimilar materials;
- g. Failing to properly caulk between dissimilar materials; and
- h. Failing to properly flash and water protect the window assemblies.

23. Later in January, 2014, TUSCANY retained OI Building Testing & Investigation LLC, (hereinafter "OI"), to determine the cause of the water intrusion, premature degradation of the stucco, and musty and moldy odors in certain units. **(A copy of the OI inspection report is attached as Exhibit C)**

24. The results of that investigation revealed consistently defective and damaged stucco at multiple locations throughout the property.
25. OI observed various stucco defects including but not limited to:
 - a. Spider cracking
 - b. Cracking with displacement
 - c. Stucco/weep screed offset more than one inch from stem wall;
 - d. Missing casing beads (stucco stops) at dissimilar materials;
 - e. Missing sealant at penetrations, windows, and dissimilar materials;
 - f. Exposed metal lath.
26. OI tested three residences, removing drywall from at least one location in each.
27. The testing revealed the following:
 - a. Actively wet and extensive sheathing damage at the north garage wall at 145 Monte Carlo Court;
 - b. Organic growth consistent with mold at wall cavities at 145 Monte Carlo Court at the north garage wall;
 - c. Organic growth consistent with mold at 328 W. Pisa Place in a southwest upstairs bedroom;
 - d. West wall above flashing/stucco defect at 328 W. Pisa Place.
28. On January 18, 2014, OI performed a modified American Society for Testing and Materials (hereinafter "ASTM") E1105 test on the north garage wall of 145 Monte Carlo Court to test the stucco and installation deficiencies observed during the earlier testing.
29. Shortly after the application of water from a spray rack at 7 psi, the interior Oriented Strand Board (hereinafter "OSB") showed visible moisture.

30. In less than one minute after being sprayed, the OSB became completely saturated with approximately 16-24 ounces of water having entered the building envelope in the short time frame.

31. On January 19, 2014, OI performed three ASTM E1105 window tests at 144 Gargonza Court.

32. The window at the dining nook failed a simulated wind-driven rain test in under 40 seconds.

33. The moisture intrusion is the result of the following defective construction:

- a. Poor workmanship;
- b. Improper stucco and stucco application;
- c. Possible defective cementitious product;
- d. Faulty abutments;
- e. Lack of sealant at dissimilar voids;
- f. Poor control joints;
- g. Windows abutting directly to stucco without proper sealant to join the dissimilar materials;
- h. Improper sealant joint that fails to meet ASTM standards for stucco application; and
- i. Failure to install head flashings as required in the Florida Building Code 703.8.

34. Additional defective construction contributing to the moisture intrusion includes:

- a. Faulty installation of the lath;
- b. Faulty nailing patterns;

c. Faulty cement mixture.

35. In January, 2015, TUSCANY retained both CMCG and OIBTI to conduct extensive, project wide observation, testing, and evaluation, in order to catalog and define the extent and magnitude of the previously identified construction issues.

36. The testing began on January 12th, 2015 and ran for over twelve weeks.

37. KB was informed of the testing and the schedule, and was afforded an opportunity to observe the testing procedures and the actual tests themselves.

38. KB retained an expert who was present during selected phases of the investigation and testing process.

39. The testing included calibrated spray rack and water nozzle applications, drywall removal and inspection, numerous stucco cores and samples were removed, cataloged, and identified, and tests were conducted to determine the source points for water intrusion.

40. During the testing process, it was discovered that the portico roofs over the majority of the north phase units were leaking and causing extensive damage to other property including interior finishes, drywall, sheathing, and the stucco itself.

41. The roof testing revealed that all of the portico roofs had flashing issues as well as issues with dissimilar materials, and inadequate separation between adjoining surfaces.

42. Also during the testing process it was discovered that there were significant issues with both the paint application, paint material, and the lack of caulking and sealants used in the original construction.

43. The final phase of the investigation involved an extensive remediation protocol and the pricing of the remediation cost for the entire project.
44. The reports generated to date, as well as the scope of the remediation, and cost to repair estimates have been shared with KB.
45. The defects are latent in nature and not discoverable without extensive destructive testing.
46. On February 7, 2014, KB was served with a statutory Fla. Stat. §558 Notice of Defects and Opportunity to Cure, and given the statutory sixty days to provide a plan for remediating the defective construction. **(A copy of the notice is attached as Exhibit D)**
47. To date, KB has not responded with a plan for remediating the defective construction.
48. All conditions precedent to this action, including the Plaintiffs' compliance with all notice requirements pursuant to Chapter 558 of the Florida Statutes, have been satisfied, have occurred or have otherwise been waived.

COUNT I NEGLIGENCE

49. TUSCANY incorporates the General Allegations above as though fully set forth herein.
50. As a contractor and developer, duly licensed by the State of Florida, KB, had a duty to perform services on behalf of TUSCANY in a manner consistent with industry standards and practices, and in such a manner as to not cause harm to TUSCANY.
51. KB was negligent in providing those services by failing to ensure that its subcontractors and suppliers provided services and materials without causing harm to

TUSCANY.

52. As a result of KB's negligence, TUSCANY has experienced excessive water intrusion, microbial mold growth, and damage to exterior portions of its buildings.

53. The water intrusion and resultant mold damage and water damage caused by KB's negligence has caused damage to other property including, but not limited to, exterior wood framing, wood substrate, exterior stucco, dry wall, insulation, and interior finishes.

54. TUSCANY has been damaged by KB's negligence, including, but not limited to, the costs associated with conducting extensive investigations and the cost of repairs to the subject buildings.

WHEREFORE, TUSCANY demands judgment against KB for damages, pre and post -judgment interest, costs and any such further relief this Court deems just and proper, and demands a trial by jury.

Respectfully submitted this 21st day of April, 2015.

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Erin Rohan Smith, Esquire, FBN: 0053093
William Douglas Stanford, Jr., Esq., FBN: 0072873
Randy R. Cardoza, III, Esq., FBN: 0104927
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pam@robertsonfirm.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of _____, 2015, I electronically filed the above and foregoing with the Clerk of the Court by using the Florida E-Portal System, which will send a notice of electronic filing and a true and accurate copy of the foregoing to the following:

Charles J. Cacciabeve, Esquire
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ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT IN &
FOR ST. JOHNS COUNTY, FLORIDA

TUSCANY VILLAGE OF ST. AUGUSTINE
HOMEOWNER'S ASSOCIATION,
a not-for-profit Florida corporation,

Plaintiff,

vs.

KB HOME JACKSONVILLE, LLC,
a Florida corporation,

Defendant.

Case No: CA14-0808

**ORDER ON THE PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE AMENDED
COMPLAINT**

THIS CAUSE came on the Plaintiffs' Unopposed Motion for Leave to File Amended Complaint. The Court having reviewed the record, been advised that counsel for the Defendant is not opposing the Motion, and being otherwise fully advised in the matter:

IT IS HEREBY ORDERED and ADJUDGED:

1. The Plaintiffs' Motion for Leave to File the Second Amended Complaint is GRANTED.
2. The Plaintiff's Second Amended Complaint is deemed filed as the date of this order.
3. The Defendants have twenty (20) days from the date of this order to file a response to the Plaintiff's Second Amended Complaint.

DONE AND ORDERED in Chambers at St. Augustine, St. Johns County, Florida, this
_____ day of _____, 2015.

HOWARD M MALTZ



Copies to:

Peter A. Robertson, Esquire

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Attorneys for Defendant,

KB Home Jacksonville, LLC

=

EXHIBIT B

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR ST. JOHNS COUNTY, FLORIDA

TUSCANY VILLAGE OF ST. AUGUSTINE
HOMEOWNER'S ASSOCIATION, a not for
profit Florida corporation,

Plaintiff,

vs.

Case No.: 2014-CA-0808

KB HOME JACKSONVILLE, LLC, a
Delaware limited liability corporation,

Defendant.

KB HOME JACKSONVILLE, LLC, a
Delaware limited liability corporation,

Third Party Plaintiff,

vs.

AMERICAN LATHING OF NORTH
FLORIDA, INC., a Florida corporation;
NORTH FLORIDA FRAMING, INC., a
Florida corporation; PEDEL PAINTING,
INC., a Florida corporation; PRFECT
SOLUTIONS CONTRACTING LLC., a
Florida corporation; GET IN TOUCH, INC.
d/b/a SA ROBINSON CONSTRUCTION, a
Florida corporation; ATRIUM WINDOWS &
DOORS OF FLORIDA, LLC d/b/a KINCO
WINDOWS AND DOORS, a Florida
corporation; ACTION GARAGE DOOR
SERVICES OF FLORIDA, INC., a Florida
corporation; BUILDERS FIRSTSOURCE OF
JACKSONVILLE, INC., a Florida
corporation; ACACIA ROOFING
COMPANY, a Florida corporation;
WEATHER BARRIERS UNLIMITED, LLC;
a Florida limited liability corporation;
MCNEAL & WHITE CONTRACTORS, INC.,
a Florida corporation; TCI JACKSONVILLE,
LLC d/b/a GULF COAST INDUSTRIES, a

Florida limited liability corporation; JAX
VINYL SIDING, INC., a Florida corporation;
EMCO RAIN GUTTERS, INC. d/b/a EMCO
ROOFING, a Florida corporation,

Third Party Defendants.

**DEFENDANT, KB HOME JACKSONVILLE, LLC'S, ANSWER AND DEFENSES TO
SECOND AMENDED COMPLAINT AND THIRD PARTY COMPLAINT**

Defendant, KB HOME Jacksonville, LLC, ("Defendant" or "KB HOME"), by and through its undersigned counsel and pursuant to applicable Florida Rules of Civil Procedure, hereby files its Answer and Defenses to Plaintiff, Tuscany Village of St. Augustine Homeowner's Association's, Second Amended Complaint, as follows:

ANSWER

Responding to the allegations of the Second Amended Complaint, KB HOME specifically and expressly denies each and every allegation, except those allegations specifically and expressly admitted below. In further response to the numbered paragraphs of the Second Amended Complaint, KB HOME states as follows:

1. Admitted that Plaintiff purports to bring an action for damages that exceed fifteen thousand dollars. Specifically denied that Plaintiff is entitled to any relief in this cause.
2. Admitted for jurisdictional purposes only.
3. The allegations contained in paragraph 3 are denied because KB HOME is a foreign limited liability company (not a Florida corporation) authorized to conduct business in the State of Florida.
4. Admitted that KB HOME built and sold residences at issue in these legal proceedings; otherwise denied.

5. Admitted that attached as Exhibit A is the Declaration of Covenants, Conditions, and Restrictions for Tuscan Village of St. Augustine; otherwise denied.

6. The document attached as Exhibit A speaks for itself; therefore, denied.

7. The document attached as Exhibit A speaks for itself; therefore, denied.

8. The document attached as Exhibit A speaks for itself; therefore, denied.

9. The document attached as Exhibit A speaks for itself; therefore, denied.

10. The document attached as Exhibit A speaks for itself; therefore, denied.

11. The allegations in paragraph 11 constitute legal conclusions to which no response is required; therefore, denied.

12. The allegations in paragraph 12 constitute legal conclusions to which no response is required; therefore, denied.

13. The allegations in paragraph 13 constitute legal conclusions to which no response is required; therefore, denied.

14. Without knowledge; therefore, denied.

15. Denied.

16. Without knowledge; therefore, denied.

17. Without knowledge; therefore, denied.

18. Without knowledge; therefore, denied.

19. Denied.

20. Denied.

21. Without knowledge; therefore, denied.

22. Denied.

a. Denied.

- b. Denied.
 - c. Denied.
 - d. Denied.
 - e. Denied.
 - f. Denied.
 - g. Denied.
 - h. Denied.
23. Without knowledge; therefore, denied.
24. Without knowledge; therefore, denied.
25. Without knowledge; therefore, denied.
- a. Without knowledge; therefore, denied.
 - b. Without knowledge; therefore, denied.
 - c. Without knowledge; therefore, denied.
 - d. Without knowledge; therefore, denied.
 - e. Without knowledge; therefore, denied.
 - f. Without knowledge; therefore, denied.
26. Without knowledge; therefore, denied.
27. Without knowledge; therefore, denied.
- a. Without knowledge; therefore, denied.
 - b. Without knowledge; therefore, denied.
 - c. Without knowledge; therefore, denied.
 - d. Without knowledge; therefore, denied.
28. Without knowledge; therefore, denied.

29. Without knowledge; therefore, denied.
30. Without knowledge; therefore, denied.
31. Without knowledge; therefore, denied.
32. Without knowledge; therefore, denied.
33. Denied.
 - a. Denied.
 - b. Denied.
 - c. Denied.
 - d. Denied.
 - e. Denied.
 - f. Denied.
 - g. Denied.
 - h. Denied.
 - i. Denied.
34. Denied.
 - a. Denied.
 - b. Denied.
 - c. Denied.
35. Without knowledge; therefore, denied.
36. Without knowledge; therefore, denied.
37. Denied as phrased.
38. Denied as phrased.
39. Without knowledge; therefore, denied.

40. Without knowledge; therefore, denied.

41. Denied.

42. Without knowledge; therefore, denied.

43. Without knowledge; therefore, denied.

44. Admitted.

45. Denied.

46. Admitted that KB HOME received a copy of the Fla. Stat. §558 Notice of Defects and Opportunity to Cure; otherwise denied.

47. Admitted that KB HOME has not responded with a plan and denied that there is defective construction.

48. Denied that the conditions precedent to this action have been satisfied. Specifically, KB HOME denies that it was provided the required statutory notice of the alleged defects discovered during the twelve week testing period beginning on January 12, 2015 as discussed in paragraphs 35 through 44 of Plaintiff's Second Amended Complaint.

Count 1: Negligence

49. KB HOME incorporates its responses to paragraphs 1 through 48 above as if fully set forth herein.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

WHEREFORE, Defendant, KB HOME Jacksonville, LLC, denies that Plaintiff is entitled to judgment or relief as set forth in its unnumbered “Wherefore” clause.

GENERAL DENIAL

KB HOME denies all other allegations not previously admitted, denied, or otherwise controverted herein.

DEFENSES

First Defense

Plaintiff has failed to mitigate its damages; therefore, Plaintiff’s alleged claims for damages are barred.

Second Defense

Plaintiff must have its claimed damages or recovery offset by any and all collateral sources received by Plaintiff.

Third Defense

The damages allegedly sustained by Plaintiff were proximately caused by one or more intervening or supervening causes relieving KB HOME of any and all liability.

Fourth Defense

Plaintiff is barred from recovery to the extent that the alleged damages are speculative or otherwise uncertain.

Fifth Defense

Plaintiff may be barred, in whole or in part, from recovery because it has made statements or taken actions that estop it from asserting its claims.

Sixth Defense

Plaintiff may be barred, in whole or in part, from recovery based on the doctrine of waiver due to its statements, actions, or inactions.

Seventh Defense

Plaintiff's claim is barred, in whole or in part, by the doctrine of comparative negligence.

Eight Defense

Plaintiff is precluded from recovering any losses or damages to the extent that any such losses or damages were caused by Plaintiff, its invitees, its licensees, and its subcontractors, and anyone other than KB HOME.

Ninth Defense

Plaintiff is precluded from recovering any losses or damages to the extent that any such losses or damages were caused by one or more acts of God.

Tenth Defense

Plaintiff has failed to satisfy the conditions precedent to bringing this action as Plaintiff represented to KB HOME, and KB HOME relied upon Plaintiff's representation, that a response to Plaintiff's alleged §558.004 Notice of Claim was not required as KB HOME was in the process of evaluating the claims. Because of this representation, Plaintiff has failed to satisfy the conditions precedent as set forth in Chapter 558.

Eleventh Defense

Plaintiff may be barred, in whole or in part, from recovery based on its failure to perform maintenance on the Property and/or a failure to properly maintain the Property.

Twelfth Defense

Plaintiff's claims are precluded by the applicable Statute of Limitations.

Thirteenth Defense

Plaintiff fails to state a cause of action for any alleged defects not listed in the February 7, 2014 letter, including but not limited to those issues described in paragraphs 35 through 44 of Plaintiff's Second Amended Complaint which Plaintiff asserts were discovered during the twelve week testing period commencing on January 12, 2015.

Fourteenth Defense

KB HOME was not provided the required statutory notice of the alleged defects discussed in paragraphs 35 through 44 of Plaintiff's Second Amended Complaint. As required by §558.004(11), Plaintiff shall comply with the procedures of Chapter 558 for "each alleged construction defect." §558.004(11), Fla. Stat. The letter provided to KB HOME on February 7, 2014 did not describe the alleged construction defects or a description of the damage and loss resulting from the alleged defects vaguely referenced in paragraphs 35 through 44 of the Second Amended Complaint. Thus, Plaintiff has failed to satisfy conditions precedent as set forth in Chapter 558.

Fifteenth Defense

KB HOME expressly reserves the right to amend and/or add additional affirmative defenses as discovery and investigation continues.

WHEREFORE, based on the above, KB HOME Jacksonville, LLC demands that judgment be entered against Plaintiff and for such other and further relief as is allowable under the laws of the State of Florida.

KB HOME JACKSONVILLE, LLC, THIRD-PARTY COMPLAINT

KB HOME Jacksonville, LLC (hereinafter, "KB HOME"), by and through its undersigned counsel and pursuant to Rule 1.180 of the Florida Rules of Civil Procedure, hereby sues Third-Party Defendants, American Lathing of North Florida, Inc., North Florida Framing, Inc., Pedel Painting, Inc., Prfect Solutions Contracting LLC, Get in Touch, Inc. d/b/a SA Robinson Construction, Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors, Action Garage Door Services of Florida, Inc., Builders FirstSource of Jacksonville, Inc., Acacia Roofing Company, Inc., Weather Barriers Unlimited, LLC, McNeal & White Contractors, Inc., TCI Jacksonville, LLC d/b/a Gulf Coast Industries, Jax Vinyl Siding, Inc., and Emco Rain Gutters, Inc. d/b/a EMCO Roofing, and alleges as follows:

1. Each cause of action set forth herein is an action for damages in excess of \$15,000.00, exclusive of interest, costs, and attorneys' fees.
2. KB HOME is a Delaware limited liability company authorized to transact and transacting business in the State of Florida.
3. Upon information and belief, Third Party Defendant, American Lathing of North Florida, Inc. (hereinafter, "American Lathing"), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the construction of townhomes within the Tuscan Village residential community located in St. Johns County, Florida (such homes being referred to herein as the "Project"). KB HOME and American Lathing entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project ("American Lathing Subcontract Agreement"). A copy of the master subcontract agreement, and amendments thereto, are attached hereto as **Exhibit A**.

4. Upon information and belief, Third Party Defendant, North Florida Framing, Inc. (hereinafter, "N. Fla. Framing"), was a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and N. Fla. Framing entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project ("N. Fla. Framing Subcontract Agreement"). A copy of the master subcontract agreement is attached hereto as **Exhibit B**.

5. Upon information and belief, Third Party Defendant, Pedel Painting, Inc. (hereinafter, "Pedel Painting"), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Pedel Painting entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project ("Pedel Painting Subcontract Agreement"). A copy of the master subcontract agreement is attached hereto as **Exhibit C**.

6. Upon information and belief, Third Party Defendant, Prfect Solutions Contracting LLC (hereinafter, "Prfect Solutions"), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Prfect Solutions entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project ("Prfect Solutions Subcontract Agreement"). A copy of the master subcontract agreement is attached hereto as **Exhibit D**.

7. Upon information and belief, Third Party Defendant, Action Garage Door Services of Florida, Inc. (hereinafter, "Action Garage Door"), is a Florida corporation, who at

times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project (“Action Garage Door Subcontract Agreement”). KB HOME and Action Garage Door entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project. A copy of the master subcontract agreement is attached hereto as **Exhibit E**.

8. Upon information and belief, Third Party Defendant, Get in Touch, Inc. d/b/a SA Robinson Construction (hereinafter, “Robinson Construction”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Robinson Construction entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project (“Robinson Construction Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit F**.

9. Upon information and belief, Third Party Defendant, Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors (hereinafter, “Atrium”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Atrium entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project (“Atrium Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit G**.

10. Upon information and belief, Third Party Defendant, Builders FirstSource of Jacksonville, Inc. (hereinafter, “Builders FirstSource”), is a Florida corporation who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Builders FirstSource

entered into a master subcontract for the construction of, among other things, the Project or portion of the Project (“Builders FirstSource Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit H**.

11. Upon information and belief, Third Party Defendant, Acacia Roofing Company, Inc. (hereinafter, “Acacia”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Acacia entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project (“Acacia Subcontract Agreement”). At this time, KB HOME is not in possession of this master subcontract, but its material terms are, upon information and belief, substantially identical to the other master subcontracts attached to the Third Party Complaint; further, KB HOME believes Acacia is in possession of the Acacia Subcontract Agreement.

12. Upon information and belief, Third Party Defendant, Weather Barriers Unlimited, LLC (hereinafter, “Weather Barriers”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Weather Barriers entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project (“Weather Barriers Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit I**.

13. Upon information and belief, Third Party Defendant, McNeal & White Contractors, Inc. (hereinafter, “McNeal”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and McNeal entered into a master

subcontract for the construction of, among other things, the Project or a portion of the Project (“McNeal Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit J**.

14. Upon information and belief, Third Party Defendant, TCI Jacksonville, LLC d/b/a Gulf Coast Industries (hereinafter, “Gulf Coast”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Gulf Coast entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project (“Gulf Coast Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit K**.

15. Upon information and belief, Third Party Defendant, Jax Vinyl Siding, Inc. (hereinafter, “Jax Vinyl”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Jax Vinyl entered into a master subcontract for the construction of, among other things, the Project or a portion of the Project (“Jax Vinyl Subcontract Agreement”). At this time, KB HOME is not in possession of this master subcontract, but its material terms are, upon information and belief, substantially identical to the other master subcontracts attached to the Third Party Complaint; further, KB HOME believes Jax Vinyl is in possession of the Jax Vinyl Subcontract Agreement.

16. Upon information and belief, Third Party Defendant, Emco Rain Gutters, Inc. d/b/a EMCO Roofing (hereinafter, “EMCO”), is a Florida corporation, who at times material to this Third Party Complaint engaged in commercial activity in St. Johns County, Florida, and performed services relating to the Project. KB HOME and Jax Vinyl entered into a master

subcontract for the construction of, among other things, the Project or a portion of the Project (“EMCO Subcontract Agreement”). A copy of the master subcontract agreement is attached hereto as **Exhibit L**.

17. The subcontractors identified in paragraphs 3 through 16 are collectively referred to as the “Subcontractors.”

18. The Project is located in St. Johns County, Florida, and each cause of action alleged in this Third Party Complaint accrued in St. Johns County.

19. All conditions precedent to bringing this action have been performed, excused, waived, or have otherwise occurred.

General Allegations

20. KB HOME was the general contractor for the Project.

21. KB HOME contracted with the Subcontractors to perform work necessary to construct numerous townhomes for the Project.

22. On or about February 7, 2014, the Association mailed a Chapter 558 Notice to KB HOME asserting various construction defects related to the stucco substrates, the framing, insulation and interior drywall installed at the Project. A copy of the February 7, 2014 correspondence is attached as **Exhibit M**.

23. In turn, KB HOME entered into discussions with the Association related to investigations.

24. Beginning in January 2015, the Association commenced a testing and investigation process it deemed to be appropriate.

25. As a result of the Association's February 7, 2014 notice and its conclusions from the January 2015 testing, the Association asserts that the work performed at the Project was defective ("Alleged Defects").

26. KB HOME notified several Subcontractors, including but not limited to American Lathing of North Florida, Inc., North Florida Framing, Inc., Pedel Painting, Inc., Prfect Solutions Contracting LLC, Get in Touch, Inc. d/b/a SA Robinson Construction, Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors, Action Garage Door Services of Florida, Inc., Builders FirstSource of Jacksonville, Inc., Acacia Roofing Company, Inc., Weather Barriers Unlimited, LLC, McNeal & White Contractors, Inc., TCI Jacksonville, LLC d/b/a Gulf Coast Industries, Jax Vinyl Siding, Inc., and Emco Rain Gutters, Inc. d/b/a EMCO Roofing, of the February 7, 2014 Chapter 558 Notice.

27. If the Association's allegations are proven true, then the worked provided by the Subcontractors would be considered defective.

28. If the Association's allegations are proven true, then the existence and/or cause of the Alleged Defects may be technical and not readily recognizable by persons who lack special knowledge or training, and/or were latent and remained undiscovered for a period of time following the final completion of construction.

29. If the Association's allegations are proven true, then the Alleged Defects have caused damage to other building components and damage to other property.

30. If the Association's allegations are proven true, then the Alleged Defects include, among other things, defects related to stucco substrates, framing, insulation, and interior drywall resulting from water intrusion and defective workmanship by subcontractors and tradesmen which, in addition to falling below acceptable standards of practice in the industry and failing to

comply with the contract documents and applicable building codes, caused property damage to the work of KB HOME, other subcontractors and tradesmen, and to other building components and materials.

31. The Alleged Defects were caused in whole or in part by the occurrence of repeated and continuous conditions, and the consequences of those conditions were neither expected nor intended by the parties.

32. As a result of the Alleged Defects, KB HOME has been required to incur significant costs to investigate the claims of the Plaintiff and to defend against those claims. The costs and damages are continuing in nature.

33. KB HOME hired the undersigned law firm to represent it in the matter and is obligated to pay reasonable fees for the firm's services, for which the Subcontractors are liable.

COUNT ONE
American Lathing of North Florida, Inc.
Breach of Contract

34. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33 as if fully set forth herein.

35. This is an action for breach of contract against American Lathing.

36. The Association contends that KB HOME supplied defective materials, products or services to the Project.

37. If the Association's contentions are proven true, then American Lathing's defective work caused damage to the Project.

38. American Lathing performed scopes of work on the Project, including but not limited to the stucco scope of work, on the Project.

39. At all relevant times, KB HOME performed its obligations under the American Lathing Subcontract Agreement.

40. In contrast, American Lathing failed to perform its obligations under the American Lathing Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the American Lathing Subcontract Agreement.

41. As a direct result of American Lathing's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by American Lathing.

42. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the American Lathing Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against American Lathing of North Florida, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT TWO
American Lathing of North Florida, Inc.
Negligence

43. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

44. This is an action for negligence against American Lathing. This action is pled in the alternative to the breach of contract action against American Lathing. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then American Lathing is responsible for such damage.

45. The Association contends that KB HOME supplied defective materials, products or services to the Project.

46. If the Association's contentions are proven true, then American Lathing's defective work caused damage to the Project.

47. American Lathing had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

48. By reasons of the allegations in paragraphs 22 through 32, American Lathing breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

49. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against American Lathing of North Florida, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THREE
American Lathing of North Florida, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

50. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

51. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

52. The Association contends that KB HOME supplied defective materials, products or services to the Project.

53. If the Association's contentions are proven true, then American Lathing's defective work caused damage to the Project.

54. American Lathing was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553, Florida Statutes (hereinafter "Chapter 553").

55. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, American Lathing breached its obligation to perform its work in accordance with Chapter 553.

56. American Lathing was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, American Lathing knew or should have known that its work was in violation of Chapter 553.

57. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against American Lathing of North Florida, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT FOUR
North Florida Framing, Inc.
Breach of Contract

58. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

59. This is an action for breach of contract against N. Fla. Framing.

60. The Association contends that KB HOME supplied defective materials, products or services to the Project.

61. If the Association's contentions are proven true, then N. Fla. Framing's defective work caused damage to the Project.

62. At all relevant times, KB HOME performed its obligations under the N. Fla. Framing Subcontract Agreement.

63. In contrast, N. Fla. Framing failed to perform its obligations under the N. Fla. Framing Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the N. Fla. Framing Subcontract Agreement.

64. As a direct result of N. Fla. Framing's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by N. Fla. Framing.

65. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the N. Fla. Framing Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against North Florida Framing, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT FIVE
North Florida Framing, Inc.
Negligence

66. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

67. This is an action for negligence against N. Fla. Framing. This action is pled in the alternative to the breach of contract action against N. Fla. Framing. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then N. Fla. Framing is responsible for such damage.

68. The Association contends that KB HOME supplied defective materials, products or services to the Project.

69. If the Association's contentions are proven true, then N. Fla. Framing's defective work caused damage to the Project.

70. N. Fla. Framing had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

71. By reasons of the allegations in paragraphs 22 through 32, N. Fla. Framing breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

72. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against North Florida Framing, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT SIX
North Florida Framing, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

73. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

74. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

75. The Association contends that KB HOME supplied defective materials, products or services to the Project.

76. If the Association's contentions are proven true, then N. Fla. Framing's defective work caused damage to the Project.

77. N. Fla. Framing was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

78. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, N. Fla. Framing breached its obligation to perform its work in accordance with Chapter 553.

79. N. Fla. Framing was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, N. Fla. Framing knew or should have known that its work was in violation of Chapter 553.

80. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against North Florida Framing, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT SEVEN
Pedel Painting, Inc.
Breach of Contract

81. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

82. This is an action for breach of contract against Pedel Painting.

83. The Association contends that KB HOME supplied defective materials, products or services to the Project.

84. If the Association's contentions are proven true, then Pedel Painting's defective work caused damage to the Project.

85. Pedel Painting performed various scopes of work on the Project.

86. At all relevant times, KB HOME performed its obligations under the Pedel Painting Subcontract Agreement.

87. In contrast, Pedel Painting failed to perform its obligations under the Pedel Painting Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Pedel Painting Subcontract Agreement.

88. As a direct result of Pedel Painting's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Pedel Painting.

89. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Pedel Painting Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Pedel Painting, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT EIGHT
Pedel Painting, Inc.
Negligence

90. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

91. This is an action for negligence against Pedel Painting. This action is pled in the alternative to the breach of contract action against Pedel Painting. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Pedel Painting is responsible for such damage.

92. The Association contends that KB HOME supplied defective materials, products or services to the Project.

93. If the Association's contentions are proven true, then Pedel Painting's defective work caused damage to the Project.

94. Pedel Painting had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

95. By reasons of the allegations in paragraphs 22 through 32, Pedel Painting breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

96. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Pedel Painting, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT NINE
Pedel Painting, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

97. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

98. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

99. The Association contends that KB HOME supplied defective materials, products or services to the Project.

100. If the Association's contentions are proven true, then Pedel Painting's defective work caused damage to the Project.

101. Pedel Painting was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

102. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Pedel Painting breached its obligation to perform its work in accordance with Chapter 553.

103. Pedel Painting was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Pedel Painting knew or should have known that its work was in violation of Chapter 553.

104. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Pedel Painting, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TEN
Prfect Solutions Contracting LLC
Breach of Contract

105. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

106. This is an action for breach of contract against Prfect Solutions.

107. The Association contends that KB HOME supplied defective materials, products or services to the Project.

108. If the Association's contentions are proven true, then Prfect Solutions' defective work caused damage to the Project.

109. Prfect Solutions performed various scopes of work on the Project.

110. At all relevant times, KB HOME performed its obligations under the Prfect Solutions Subcontract Agreement.

111. In contrast, Prfect Solutions failed to perform its obligations under the Prfect Solutions Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Prfect Solutions Subcontract Agreement.

112. As a direct result of Prfect Solutions' material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Prfect Solutions.

113. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Prfect Solutions Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Prfect Solutions Contracting LLC for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT ELEVEN
Prfect Solutions Contracting LLC
Negligence

114. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

115. This is an action for negligence against Prfect Solutions. This action is pled in the alternative to the breach of contract action against Prfect Solutions. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Prfect Solutions is responsible for such damage.

116. The Association contends that KB HOME supplied defective materials, products or services to the Project.

117. If the Association's contentions are proven true, then Prfect Solutions' defective work caused damage to the Project.

118. Prfect Solutions had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

119. By reasons of the allegations in paragraphs 22 through 32, Prfect Solutions breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

120. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Prfect Solutions Contracting LLC for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWELVE
Prfect Solutions Contracting LLC
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

121. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

122. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

123. The Association contends that KB HOME supplied defective materials, products or services to the Project.

124. If the Association's contentions are proven true, then Prfect Solutions' defective work caused damage to the Project.

125. Prfect Solutions was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

126. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Prfect Solutions breached its obligation to perform its work in accordance with Chapter 553.

127. Prfect Solutions was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Prfect Solutions knew or should have known that its work was in violation of Chapter 553.

128. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Prfect Solutions Contracting LLC for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTEEN
Get in Touch, Inc. d/b/a SA Robinson Construction
Breach of Contract

129. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

130. This is an action for breach of contract against Robinson Construction.

131. The Association contends that KB HOME supplied defective materials, products or services to the Project.

132. If the Association's contentions are proven true, then Robinson Construction's defective work caused damage to the Project.

133. Robinson Construction performed various scopes of work on the Project.

134. At all relevant times, KB HOME performed its obligations under the Robinson Construction Subcontract Agreement.

135. In contrast, Robinson Construction failed to perform its obligations under the Robinson Construction Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Robinson Construction Subcontract Agreement.

136. As a direct result of Robinson Construction's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Robinson Construction.

137. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Robinson Construction Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Get in Touch, Inc. d/b/a SA Robinson Construction for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT FOURTEEN
Get in Touch, Inc. d/b/a SA Robinson Construction
Negligence

138. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

139. This is an action for negligence against Robinson Construction. This action is pled in the alternative to the breach of contract action against Robinson Construction. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Robinson Construction is responsible for such damage.

140. The Association contends that KB HOME supplied defective materials, products or services to the Project.

141. If the Association's contentions are proven true, then Robinson Construction's defective work caused damage to the Project.

142. Robinson Construction had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

143. By reasons of the allegations in paragraphs 22 through 32, Robinson Construction breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

144. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Get in Touch, Inc. d/b/a SA Robinson Construction for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT FIFTEEN

**Get in Touch, Inc. d/b/a SA Robinson Construction
Statutory Cause of Action Pursuant to Fla. Stat. §553.84**

145. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

146. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

147. The Association contends that KB HOME supplied defective materials, products or services to the Project.

148. If the Association's contentions are proven true, then Robinson Construction's defective work caused damage to the Project.

149. Robinson Construction was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

150. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Robinson Construction breached its obligation to perform its work in accordance with Chapter 553.

151. Robinson Construction was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Robinson Construction knew or should have known that its work was in violation of Chapter 553.

152. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Get in Touch, Inc. d/b/a SA Robinson Construction for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT SIXTEEN
Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors
Breach of Contract

153. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

154. This is an action for breach of contract against Atrium.

155. The Association contends that KB HOME supplied defective materials, products or services to the Project.

156. If the Association's contentions are proven true, then Atrium's defective work caused damage to the Project.

157. Atrium performed various scopes of work on the Project.

158. At all relevant times, KB HOME performed its obligations under the Atrium Subcontract Agreement.

159. In contrast, Atrium failed to perform its obligations under the Atrium Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Atrium Subcontract Agreement.

160. As a direct result of Atrium's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Atrium.

161. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Atrium Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT SEVENTEEN

**Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors
Negligence**

162. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

163. This is an action for negligence against Atrium. This action is pled in the alternative to the breach of contract action against Atrium. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Atrium is responsible for such damage.

164. The Association contends that KB HOME supplied defective materials, products or services to the Project.

165. If the Association's contentions are proven true, then Atrium's defective work caused damage to the Project.

166. Atrium had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

167. By reasons of the allegations in paragraphs 22 through 32, Atrium breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

168. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT EIGHTEEN

**Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors
Statutory Cause of Action Pursuant to Fla. Stat. §553.84**

169. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

170. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

171. The Association contends that KB HOME supplied defective materials, products or services to the Project.

172. If the Association's contentions are proven true, then Atrium's defective work caused damage to the Project.

173. Atrium was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

174. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Atrium breached its obligation to perform its work in accordance with Chapter 553.

175. Atrium was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Atrium knew or should have known that its work was in violation of Chapter 553.

176. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Atrium Windows & Doors of Florida, LLC d/b/a Kinco Windows and Doors for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT NINETEEN
Action Garage Door Services of Florida, Inc.
Breach of Contract

177. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

178. This is an action for breach of contract against Action Garage Door.

179. The Association contends that KB HOME supplied defective materials, products or services to the Project.

180. If the Association's contentions are proven true, then Action Garage Door's defective work caused damage to the Project.

181. Action Garage Door performed various scopes of work on the Project.

182. At all relevant times, KB HOME performed its obligations under the Action Garage Door Subcontract Agreement.

183. In contrast, Action Garage Door failed to perform its obligations under the Action Garage Door Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;

- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Action Garage Door Subcontract Agreement.

184. As a direct result of Action Garage Door's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Action Garage Door.

185. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Action Garage Door Subcontract Agreement.

WHEREFORE, KB HOME demands judgment Action Garage Door Services of Florida, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY
Action Garage Door Services of Florida, Inc.

Negligence

186. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

187. This is an action for negligence against Action Garage Door. This action is pled in the alternative to the breach of contract action against Action Garage Door. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Action Garage Door is responsible for such damage.

188. The Association contends that KB HOME supplied defective materials, products or services to the Project.

189. If the Association's contentions are proven true, then Action Garage Door's defective work caused damage to the Project.

190. Action Garage Door had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with **all applicable codes** and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

191. By reasons of the allegations in paragraphs 22 through 32, Action Garage Door breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

192. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Action Garage Door Services of Florida, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY ONE
Action Garage Door Services of Florida, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

193. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

194. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

195. The Association contends that KB HOME supplied defective materials, products or services to the Project.

196. If the Association's contentions are proven true, then Action Garage Door's defective work caused damage to the Project.

197. Action Garage Door was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

198. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Action Garage Door breached its obligation to perform its work in accordance with Chapter 553.

199. Action Garage Door was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Action Garage Door knew or should have known that its work was in violation of Chapter 553.

200. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional

damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Action Garage Door Services of Florida, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY TWO
Builders FirstSource of Jacksonville, Inc.
Breach of Contract

201. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

202. This is an action for breach of contract against Builders FirstSource.

203. The Association contends that KB HOME supplied defective materials, products or services to the Project.

204. If the Association's contentions are proven true, then Builders FirstSource's defective work caused damage to the Project.

205. Builders FirstSource performed various scopes of work on the Project.

206. At all relevant times, KB HOME performed its obligations under the Builders FirstSource Subcontract Agreement.

207. In contrast, Builders FirstSource failed to perform its obligations under the Builders FirstSource Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;

- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Builders FirstSource Subcontract Agreement.

208. As a direct result of Builders FirstSource's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Builders FirstSource.

209. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Builders First Source Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Builders FirstSource of Jacksonville, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY THREE
Builders FirstSource of Jacksonville, Inc.
Negligence

210. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

211. This is an action for negligence against Builders FirstSource. This action is pled in the alternative to the breach of contract action against Builders FirstSource. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Builders FirstSource is responsible for such damage.

212. The Association contends that KB HOME supplied defective materials, products or services to the Project.

213. If the Association's contentions are proven true, then Builders FirstSource's defective work caused damage to the Project.

214. Builders FirstSource had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

215. By reasons of the allegations in paragraphs 22 through 32, Builders FirstSource breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

216. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Builders FirstSource of Jacksonville, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY FOUR
Builders FirstSource of Jacksonville, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

217. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

218. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

219. The Association contends that KB HOME supplied defective materials, products or services to the Project.

220. If the Association's contentions are proven true, then Builders FirstSource's defective work caused damage to the Project.

221. Builders FirstSource was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

222. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Builders FirstSource breached its obligation to perform its work in accordance with Chapter 553.

223. Builders FirstSource was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Builders FirstSource knew or should have known that its work was in violation of Chapter 553.

224. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Builders FirstSource of Jacksonville, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY FIVE
Acacia Roofing Company, Inc.
Breach of Contract

225. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

226. This is an action for breach of contract against Acacia.

227. The Association contends that KB HOME supplied defective materials, products or services to the Project.

228. If the Association's contentions are proven true, then Acacia's defective work caused damage to the Project.

229. Acacia performed various scopes of work on the Project.

230. At all relevant times, KB HOME performed its obligations under the Acacia Subcontract Agreement.

231. In contrast, Acacia failed to perform its obligations under the Acacia Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;

- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Acacia Subcontract Agreement.

232. As a direct result of Acacia's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Acacia.

233. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Acacia Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Acacia Roofing Company, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY SIX
Acacia Roofing Company, Inc.
Negligence

234. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

235. This is an action for negligence against Acacia. This action is pled in the alternative to the breach of contract action against Acacia. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Acacia is responsible for such damage.

236. The Association contends that KB HOME supplied defective materials, products or services to the Project.

237. If the Association's contentions are proven true, then Acacia's defective work caused damage to the Project.

238. Acacia had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

239. By reasons of the allegations in paragraphs 22 through 32, Acacia breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

240. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Acacia Roofing Company, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY SEVEN
Acacia Roofing Company, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

241. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

242. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

243. The Association contends that KB HOME supplied defective materials, products or services to the Project.

244. If the Association's contentions are proven true, then Acacia's defective work caused damage to the Project.

245. Acacia was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

246. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Acacia breached its obligation to perform its work in accordance with Chapter 553.

247. Acacia was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Acacia knew or should have known that its work was in violation of Chapter 553.

248. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Acacia Roofing Company, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY EIGHT
Weather Barriers Unlimited, LLC
Breach of Contract

249. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

250. This is an action for breach of contract against Weather Barriers.

251. The Association contends that KB HOME supplied defective materials, products or services to the Project.

252. If the Association's contentions are proven true, then Weather Barriers' defective work caused damage to the Project.

253. Weather Barriers performed various scopes of work on the Project.

254. At all relevant times, KB HOME performed its obligations under the Weather Barriers Subcontract Agreement.

255. In contrast, Weather Barriers failed to perform its obligations under the Weather Barriers Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;

- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Weather Barriers Subcontract Agreement.

256. As a direct result of Weather Barriers' material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Weather Barriers.

257. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Weather Barriers Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Weather Barriers Unlimited, LLC for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT TWENTY NINE
Weather Barriers Unlimited, LLC
Negligence

258. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

259. This is an action for negligence against Weather Barriers. This action is pled in the alternative to the breach of contract action against Weather Barriers. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Weather Barriers is responsible for such damage.

260. The Association contends that KB HOME supplied defective materials, products or services to the Project.

261. If the Association's contentions are proven true, then Weather Barriers' defective work caused damage to the Project.

262. Weather Barriers had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

263. By reasons of the allegations in paragraphs 22 through 32, Weather Barriers breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

264. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Weather Barriers Unlimited, LLC for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY
Weather Barriers Unlimited, LLC
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

265. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

266. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

267. The Association contends that KB HOME supplied defective materials, products or services to the Project.

268. If the Association's contentions are proven true, then Weather Barriers' defective work caused damage to the Project.

269. Weather Barriers was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

270. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Weather Barriers breached its obligation to perform its work in accordance with Chapter 553.

271. Weather Barriers was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Weather Barriers knew or should have known that its work was in violation of Chapter 553.

272. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Weather Barriers Unlimited, LLC for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY ONE
McNeal & White Contractors, Inc.
Breach of Contract

273. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

274. This is an action for breach of contract against McNeal.

275. The Association contends that KB HOME supplied defective materials, products or services to the Project.

276. If the Association's contentions are proven true, then McNeal's defective work caused damage to the Project.

277. McNeal performed various scopes of work on the Project.

278. At all relevant times, KB HOME performed its obligations under the McNeal Subcontract Agreement.

279. In contrast, McNeal failed to perform its obligations under the McNeal Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;

- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the McNeal Subcontract Agreement.

280. As a direct result of McNeal's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by McNeal.

281. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the McNeal Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against McNeal & White Contractors, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY TWO
McNeal & White Contractors, Inc.
Negligence

282. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

283. This is an action for negligence against McNeal. This action is pled in the alternative to the breach of contract action against McNeal. To the extent KB HOME is found to

be liable to the Association for damages that are beyond KB HOME's own negligence, then McNeal is responsible for such damage.

284. The Association contends that KB HOME supplied defective materials, products or services to the Project.

285. If the Association's contentions are proven true, then McNeal's defective work caused damage to the Project.

286. McNeal had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

287. By reasons of the allegations in paragraphs 22 through 32, McNeal breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

288. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against McNeal & White Contractors, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY THREE
McNeal & White Contractors, Inc.
Statutory Cause of Action Pursuant to Fla. Stat. §553.84

289. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

290. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

291. The Association contends that KB HOME supplied defective materials, products or services to the Project.

292. If the Association's contentions are proven true, then McNeal's defective work caused damage to the Project.

293. McNeal was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

294. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, McNeal breached its obligation to perform its work in accordance with Chapter 553.

295. McNeal was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, McNeal knew or should have known that its work was in violation of Chapter 553.

296. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against McNeal & White Contractors, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY FOUR
TCI Jacksonville, LLC d/b/a Gulf Coast Industries
Breach of Contract

297. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

298. This is an action for breach of contract against Gulf Coast.

299. The Association contends that KB HOME supplied defective materials, products or services to the Project.

300. If the Association's contentions are proven true, then Gulf Coast's defective work caused damage to the Project.

301. Gulf Coast performed various scopes of work on the Project.

302. At all relevant times, KB HOME performed its obligations under the Gulf Coast Subcontract Agreement.

303. In contrast, Gulf Coast failed to perform its obligations under the Gulf Coast Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;

- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Gulf Coast Subcontract Agreement.

304. As a direct result of Gulf Coast's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Gulf Coast.

305. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Gulf Coast Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against TCI Jacksonville, LLC d/b/a Gulf Coast Industries for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY FIVE
TCI Jacksonville, LLC d/b/a Gulf Coast Industries
Negligence

306. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

307. This is an action for negligence against Gulf Coast. This action is pled in the alternative to the breach of contract action against Gulf Coast. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Gulf Coast is responsible for such damage.

308. The Association contends that KB HOME supplied defective materials, products or services to the Project.

309. If the Association's contentions are proven true, then Gulf Coast's defective work caused damage to the Project.

310. Gulf Coast had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

311. By reasons of the allegations in paragraphs 22 through 32, Gulf Coast breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

312. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against TCI Jacksonville, LLC d/b/a Gulf Coast Industries for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY SIX
TCI Jacksonville, LLC d/b/a Gulf Coast Industries
Statutory Cause of Action for Violation of Fla. Stat. §553.84

313. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

314. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

315. The Association contends that KB HOME supplied defective materials, products or services to the Project.

316. If the Association's contentions are proven true, then Gulf Coast's defective work caused damage to the Project.

317. Gulf Coast was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

318. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Gulf Coast breached its obligation to perform its work in accordance with Chapter 553.

319. Gulf Coast was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Gulf Coast knew or should have known that its work was in violation of Chapter 553.

320. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against TCI Jacksonville, LLC d/b/a Gulf Coast Industries for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY SEVEN
Jax Vinyl Siding, Inc.
Breach of Contract

321. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

322. This is an action for breach of contract against Jax Vinyl.

323. The Association contends that KB HOME supplied defective materials, products or services to the Project.

324. If the Association's contentions are proven true, then Jax Vinyl's defective work caused damage to the Project.

325. Jax Vinyl performed various scopes of work on the Project.

326. At all relevant times, KB HOME performed its obligations under the Jax Vinyl Subcontract Agreement.

327. In contrast, Jax Vinyl failed to perform its obligations under the Jax Vinyl Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and

- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the Jax Vinyl Subcontract Agreement.

328. As a direct result of Jax Vinyl's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by Jax Vinyl.

329. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the Jax Vinyl Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Jax Vinyl Siding, Inc. for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY EIGHT
Jax Vinyl Siding, Inc.
Negligence

330. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

331. This is an action for negligence against Jax Vinyl. This action is pled in the alternative to the breach of contract action against Jax Vinyl. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then Jax Vinyl is responsible for such damage.

332. The Association contends that KB HOME supplied defective materials, products or services to the Project.

333. If the Association's contentions are proven true, then Jax Vinyl's defective work caused damage to the Project.

334. Jax Vinyl had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

335. By reasons of the allegations in paragraphs 22 through 32, Jax Vinyl breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

336. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Jax Vinyl Siding, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT THIRTY NINE

Jax Vinyl Siding, Inc.

Statutory Cause of Action for Violation of Fla. Stat. §553.84

337. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

338. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

339. The Association contends that KB HOME supplied defective materials, products or services to the Project.

340. If the Association's contentions are proven true, then Jax Vinyl's defective work caused damage to the Project.

341. Jax Vinyl was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

342. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, Jax Vinyl breached its obligation to perform its work in accordance with Chapter 553.

343. Jax Vinyl was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, Jax Vinyl knew or should have known that its work was in violation of Chapter 553.

344. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Jax Vinyl Siding, Inc. for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNT FORTY
Emco Rain Gutters, Inc. d/b/a EMCO Roofing
Breach of Contract

345. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

346. This is an action for breach of contract against EMCO.

347. The Association contends that KB HOME supplied defective materials, products or services to the Project.

348. If the Association's contentions are proven true, then EMCO's defective work caused damage to the Project.

349. EMCO performed various scopes of work on the Project.

350. At all relevant times, KB HOME performed its obligations under the EMCO Subcontract Agreement.

351. In contrast, EMCO failed to perform its obligations under the EMCO Subcontract Agreement, including but not limited to,

- a. performing work in a good and workmanlike manner;
- b. complying with the applicable building codes;
- c. complying with the plans and specifications;
- d. providing work that is free from faults and defects of design, materials and workmanship;
- e. providing materials that are new and of the most suitable grade for the respective kind for their intended purpose;
- f. hiring employees who are sufficiently skilled to perform the work in a professional manner, the end product of which would be satisfactory to KB HOME and its customers;
- g. providing a finished product that is suitable for its intended use;
- h. not covering, hiding or failing to disclose to KB HOME any shoddy, incomplete, inadequate, nonconforming or otherwise inferior work; and
- i. indemnifying, defending, and holding harmless KB HOME from any and all claims arising out of the EMCO Subcontract Agreement.

352. As a direct result of EMCO's material breaches, KB HOME has been damaged and will continue to accrue damages in defending the Alleged Defects against the Association and incurring expenses and costs in repairing or replacing the materials, products, or services installed by EMCO.

353. KB HOME is entitled to an award of attorneys' fees, costs and other expenses based on the EMCO Subcontract Agreement.

WHEREFORE, KB HOME demands judgment against Emco Rain Gutters, Inc. d/b/a EMCO Roofing for its damages, pre and post judgment interest, its attorneys' fees and costs, and such other relief as the Court finds just and equitable.

COUNT FORTY ONE
Emco Rain Gutters, Inc. d/b/a EMCO Roofing
Negligence

354. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

355. This is an action for negligence against EMCO. This action is pled in the alternative to the breach of contract action against EMCO. To the extent KB HOME is found to be liable to the Association for damages that are beyond KB HOME's own negligence, then EMCO is responsible for such damage.

356. The Association contends that KB HOME supplied defective materials, products or services to the Project.

357. If the Association's contentions are proven true, then EMCO's defective work caused damage to the Project.

358. EMCO had a duty to (i) perform its work in a reasonably prudent manner consistently with all applicable industry codes and industry standards; (ii) supervise and coordinate the work of its employees, sub-subcontractors, and suppliers so that the work, when completed, complied with all applicable codes and industry standards; (iii) provide building materials that were fit for their intended purpose; and (iv) perform the work in a good and workmanlike manner.

359. By reasons of the allegations in paragraphs 22 through 32, EMCO breached these duties, which is an independent tort in addition to those facts amounting to a breach of contract.

360. As a direct and proximate result of these breaches, KB HOME has been damaged.

WHEREFORE, KB HOME demands judgment against Emco Rain Gutters, Inc. d/b/a EMCO Roofing for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

COUNTY FORTY TWO
Emco Rain Gutters, Inc. d/b/a EMCO Roofing
Statutory Cause of Action for Violation of Fla. Stat. §553.84

361. KB HOME re-alleges and incorporates by reference paragraphs 1 through 33, as if fully set forth herein.

362. This is an action for damages arising from building code violations pursuant to Fla. Stat. §553.84.

363. The Association contends that KB HOME supplied defective materials, products or services to the Project.

364. If the Association's contentions are proven true, then EMCO's defective work caused damage to the Project.

365. EMCO was obligated to perform its work in accordance with all laws, rules, codes and standards adopted by Chapter 553.

366. By reason of the allegations in paragraphs 22 through 32, along with the Florida Building Codes related thereto, EMCO breached its obligation to perform its work in accordance with Chapter 553.

367. EMCO was contractually obligated to ascertain the applicability to and conformance of its work with Chapter 553; therefore, EMCO knew or should have known that its work was in violation of Chapter 553.

368. As a result of the above violations of Chapter 553, KB HOME has been and will be required to spend money for the repair of Alleged Defects, and has incurred additional damage caused thereby, including damage to other property and out of pocket expenses to investigate the Alleged Defects.

WHEREFORE, KB HOME demands judgment against Emco Rain Gutters, Inc. d/b/a EMCO Roofing for its damages, pre and post judgment interest, its costs, and such other relief as the Court finds just and equitable.

Dated: May 8, 2015

Respectfully Submitted,

/s/ Mary Katherine Tinsley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 8, 2015, I electronically filed the foregoing with the Clerk of the Court using the e-portal system which will send a notice of electronic filing and a true and accurate copy of the foregoing to the following:

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