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**IN THE CIRCUIT COURT FOR THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA
CIVIL DIVISION**

**DUSTIN WALLACE and KRISTA
WALLACE, Husband and Wife,**

Plaintiffs,

Case No.:

vs.

**KB HOME, KB HOME FLORIDA, LLC and
KB HOME JACKSONVILLE, LLC,**

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, **DUSTIN WALLACE AND KRISTA WALLACE**, by and through the undersigned counsel, hereby sues Defendants, **KB HOME, KB HOME FLORIDA, LLC, and KB HOME JACKSONVILLE, LLC**, and alleges as follows:

JURISDICTION, PARTIES, AND VENUE

1. This is an action for damages in excess of \$15,000.00, exclusive of interest, costs, and attorneys' fees.
2. Plaintiffs, **DUSTIN WALLACE AND KRISTA WALLACE**, own certain property located in Duval County, Florida.
3. Defendant, **KB HOME** is a Delaware Corporation. Defendant, **KB Home** has subsidiaries doing business in Florida.

4. Defendant KB HOME FLORIDA, LLC, (“KB HOME Florida”) is a Delaware limited liability company authorized to do business in Florida. Defendant KB HOME FLORIDA is a subsidiary of Defendant KB HOME and maintains an office in Duval County, Florida, and transacts business in the State of Florida. Defendant KB HOME is the Managing Member of KB HOME FLORIDA.
5. Defendant, KB HOME JACKSONVILLE, LLC, is a Delaware corporation authorized to conduct business in the State of Florida. Defendant, builds homes in Duval County Florida, and is operating, conducting, engaging in, and carrying on a business or business venture in Duval County, Florida, and has an office or agency in Duval County, Florida.
6. Defendants, KB HOME, KB HOME FLORIDA, and KB HOME JACKSONVILLE shall collectively be referred to herein as “KB HOME.”
7. Venue for this action is properly in Duval County, Florida pursuant to section 47.051, *Florida Statutes*, as Defendant has an agent or other representative in Duval County Florida, the causes of action set forth herein occurred in Duval County, Florida, and the subject real property is located in Duval County, Florida.

GENERAL ALLEGATIONS

8. Plaintiffs, **DUSTIN WALLACE AND KRISTA WALLACE**, own the real property located at 409 Talbot Day Drive, St. Augustine, Florida 32086 (the Home).
9. Defendant, KB HOME, is the contractor that built the Home that is the subject of this Complaint.
10. The Defendant, KB HOME, first conveyed the subject property by Warranty Deed dated May 28, 2008.
11. Subsequent to construction of the Home, certain design and construction deficiencies were observed at the Home, which include, but are not limited to, an inadequately and improperly installed stucco system.

12. An agent for the Plaintiffs/Claimant inspected the Home and concluded, based upon his professional opinion, that the residence contained an inadequately and improperly installed stucco system, among other deficiencies.
13. Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, now seek recovery herein for damages proximately caused by the improper design and/or construction of the Home, which has resulted in numerous defects and deficiencies in the various systems and components in the Home, including violations of local and state building codes.
14. Defendant, by and through its subcontractors and independent contractors, violated the Florida Building Code, including the applicable ASTM Standards, by inadequately and improperly installing the stucco system on the Home.
15. The existence or causes of the defects are not readily recognizable by Plaintiffs, who lack special knowledge or training.
16. The defects are hidden by components or finishes, are latent in nature, and are defects that require special knowledge or training to ascertain and determine the nature and causes of the defects.
17. All conditions precedent to the bringing of this action have occurred, have been performed, or have been waived, including but not limited to the requirements of Section 558.004, *Florida Statutes*.

COUNT I
VIOLATION OF §553.84, FLORIDA STATUTE FOR
409 TALBOT DAY DRIVE, ST. AUGUSTINE, FLORIDA 32086 (THE "HOME").

18. Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, adopt, re-allege and incorporate by reference the allegations contained in paragraphs 1 through 17 above as though fully set forth herein.

19. Section 553.84, *Florida Statutes*, expressly creates a statutory cause of action on behalf of any person damaged as a result of a violation of the Florida Building Codes Act (section 553.70, *et. seq.*, *Florida Statutes*), against the party or parties committing the violations.
20. Defendant, KB HOME, was thus under a statutory duty to Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, pursuant to the Florida Building Codes Act, to construct and deliver the Home in compliance with all applicable local, state, and national building codes and regulations.
21. Defendant, KB HOME, in inspecting, constructing, and delivering the Home, failed to comply with all applicable local, state, and national building codes and regulations, including, but not limited to The Florida Building Code, in effect at the time of construction, in violation of the Florida Building Codes Act.
22. Defendant, KB HOME, in inspecting, constructing, and delivering the Home, failed to comply with all applicable local, state, and national building codes and regulations, and knew or should have known that the Home was in violation of The Florida Building Code, in effect at the time of construction, and in violation of the Florida Building Codes Act.
23. Defendant, KB HOME's violations include, but are not limited to an inadequately and improperly installed stucco system.
24. Due to the Defendant, KB HOME's failure to comply with the aforementioned statutes and codes, the Plaintiffs have suffered from construction defects and deficiencies.
25. As a direct and proximate result of the construction defects and violations, the Home has suffered damages not only to the exterior stucco, but also the underlying wire lath, paper backing, house wrap, wood sheathing, interior walls, interior floors, and/or other property.

26. As a direct and proximate result of the construction defects and violations, the Plaintiffs have been damaged in that the defects and violations substantially reduce the value of the Home and/or require significant repairs and renovations to correct such defects and violations.

WHEREFORE, Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, respectfully request the Court to enter final judgment against Defendant, KB HOME, for the damages specified herein, together with interest, costs, and such other relief as the Court deems just and appropriate.

COUNT II
NEGLIGENCE (VICARIOUS LIABILITY AGAINST KB HOME FOR STUCCO
SUBCONTRACTOR'S WORK PRODUCT)

27. Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, adopt, re-allege, and incorporate by reference the allegations contained in paragraphs 1 through 26 above as though fully set forth herein.

28. KB HOME contracted the construction of the Home to various subcontractor, including a stucco subcontractor.

29. The stucco subcontractor owed any potential homeowner, including Plaintiffs in this instance, a duty to exercise reasonable care in performing its scope of work including but not limited to the application of the stucco on the Home in compliance with the Florida Building Code and industry standards.

30. The stucco subcontractor in inspecting, constructing, application of the stucco, and delivering the Home, failed to comply with all applicable local, state, and national building codes and regulations, including, but not limited to The Florida Building Code, in effect at the time of construction, in violation of the Florida Building Codes Act.

31. The stucco subcontractor in inspecting, constructing, application of the stucco, and delivering the Home, failed to comply with all applicable local, state, and national building codes and regulations, and knew or should have known that the Home was in violation of The Florida Building Code, in effect at the time of construction, and in violation of the Florida Building Codes Act.
32. The stucco subcontractor's violations include, but are not limited to defective stucco system.
33. Due to the stucco subcontractor's failure to comply with the aforementioned statutes and codes, the Plaintiffs have suffered from construction defects and deficiencies.
34. As a direct and proximate result of the construction defects and violations, the Home has suffered damages not only to the exterior stucco, but also the underlying wire lath, paper backing, house wrap, wood sheathing, interior walls, interior floors, and/or other property.
35. As a direct and proximate result of the construction defects and violations, the Plaintiffs have been damaged in that the defects and violations substantially reduce the value of the Home and/or require significant repairs and renovations to correct such defects and violations.
36. Defendant, KB HOME is vicariously liable for the negligence of the active tortfeasor, the stucco subcontractor.

WHEREFORE, Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, respectfully request the Court to enter final judgment against Defendant, KB HOME for the damages specified herein, together with interest, costs, and such other relief as the Court deems just and appropriate.

COUNT III
NEGLIGENCE (VICARIOUS LIABILITY AGAINST KB HOME FOR PAINTING
SUBCONTRACTOR'S WORK PRODUCT)

37. Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, adopt, re-allege, and incorporate by reference the allegations contained in paragraphs 1 through 36 above as though fully set forth herein.
38. KB HOME contracted the construction of the Home to various subcontractors including the painting subcontractor.
39. The painting subcontractor owed any potential homeowner, including Plaintiffs in this instance, a duty to exercise reasonable care in performing its scope of work including but not limited to the application of the paint on the Home in compliance with the Florida Building Code and industry standards.
40. The painting subcontractor failed to comply with the Florida Building Code when performing its scope of work including but not limited to the application of the paint on the Home and failed to adhere to industry standards when painting and sealing around windows and other areas where stucco was in contact with dissimilar materials.
41. The painting subcontractor knew that the Home was not constructed in accordance with the Florida Building Code yet proceeded to paint the entire Home without notifying KB HOME of the deficiencies.
42. The negligence by the painting subcontractor directly led to cracking of the stucco where water ultimately infiltrated the stucco envelope causing damage to the underlying wire lath, paper backing, water resistive barriers, sheathing, interior walls, and/or other property.

43. As a direct and proximate result of the painting subcontractor's negligence, Plaintiffs have been damaged in that the defects and violations substantially reduce the value of the Home and/or require significant repairs and renovations to correct such defects and violations.

44. Defendant, KB HOME is vicariously liable for the negligence of the active tortfeasor, the painting subcontractor.

WHEREFORE, Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, respectfully request the Court to enter final judgment against Defendant, KB HOME, for the damages specified herein, together with interest, costs, and such other relief as the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs, DUSTIN WALLACE AND KRISTA WALLACE, herein, hereby demand a trial by jury on all issues so triable.

Dated: May 4, 2018

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