THIS IS VOLUME -3- OF THIS CASE FILE.

DATE OF FIRST FILING 3-06-97

DATE OF LAST FILING 10-14-97

* * *

DO NOT FILE ANY ADDITIONAL PAPERS IN THIS FILE. DETERMINE THE LATEST ACTIVE VOLUME AND FILE ACCORDINGLY.

THANK YOU.

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Attorney for Defendant
TARA COATINGS, INC. (sued herein as Doe 13)

FILED
SAN MATEO COUNTY
OCT 14 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION,

Plaintiff,
vs.

THE ANDEN GROUP, et al.,

Defendant

Case No.: 388872

TARA COATINGS, INC.'S ANSWER TO SECOND AMENDED COMPLAINT

Defendant TARA COATINGS, INC., sued herein as DOE 13, responding to EDGEWATER ISLE HOMEOWNER ASSOCATION second amended complaint on file herein, herewith admits, denies, and alleges as follows:

This answering defendant denies, generally and specifically, each and every, all and singular, the allegations of said second amended complaint, and each and every cause of action thereof, and specifically denies that plaintiff was damaged in the amount alleged in said second amended complaint or in any other amount, or at all, due to any act or omission on the part of this answering defendant.

AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF,THIS DEFENDANT ALLEGES:

That said second amended complaint, and each alleged cause of action thereof, does not state facts sufficient to constitute a cause of action against this answering defendant.

AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That said plaintiff was itself primarily and actively negligent and careless in and about the matters alleged in the second amended complaint on file herein and that said primary and active negligence and carelessness on plaintiff's own part proximately contributed to the happening of the incident and to the loss and damages complained of, if any there be.

AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That if said plaintiff recovers damages from this answering defendant, this answering defendant is entitled to indemnification, either in whole or in part, from all persons or entities whose negligence and/or fault proximately contributed to plaintiff's damages, if any there are.

AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff acted with full knowledge of all the acts and circumstances surrounding their alleged injuries and damages, and thus assumed the risk of injuries and damages, if any there are.

AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff was careless and negligent in and about the matters referred to in the second amended complaint and such negligence and carelessness on the part of the plaintiff proximately contributed to and was a proximate contributing cause of the happening of the incident and to the loss and damages complained of, if any there be.

AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND

AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff is at fault in and about the matters referred to in the second amended complaint, and such fault on the part of plaintiff proximately caused and contributed to the damages complained of, if any there are. This answering defendant further alleges that any fault not attributable to said plaintiff was a result of fault on the part of persons and/or entities other than this answering defendant. Such fault bars and/or proportionately reduces any recovery by plaintiff against this answering defendant.

AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That the damages to plaintiff, if any there be, were sustained by plaintiff as a result of an intervening cause.

AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That the plaintiff did not give this answering defendant timely notice of the breach of any alleged warranty.

AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That the plaintiff had directed, ordered, approved, and ratified defendant's conduct and plaintiff is therefore estopped from asserting any claim based thereon.

AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff, and others unrelated to this answering defendant, modified, altered,

abused, and/or misused the materials and/or equipment provided by this defendant, and such conduct caused and/or contributed to the damages which are alleged in this lawsuit.

AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff, subsequent to the occurrence described in said second amended complaint, failed to properly mitigate the damages, if any there be, and thereby are precluded from recovering those damages which could reasonably have been avoided by the exercise of due care on plaintiff's part.

AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That prior to the commencement of this action, this answering defendant duly performed, satisfied, and discharged all duties and obligations it may have owed to plaintiff arising out of any and all agreements, representations, or contracts made by them or on behalf of this answering defendant, and this action is therefore barred by the provisions of California Code of Civil Procedure §1473.

AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TOTHE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That prior to the commencement of this action, this answering defendant duly performed, satisfied, and discharged all duties and obligations it may have owed to plaintiff arising out of any and all agreements, representations, or contracts made by it or on behalf of this answering defendant except those obligations defendant was prevented and/or excused from performing by the acts and/or omission of plaintiff and/or other individuals or entities not named as defendants in the second amended complaint.

AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND

AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That if this answering defendant did not perform, satisfy, and discharge all duties and obligations it may have owed to plaintiff arising out of any and all agreements, representations, or contracts made by it or on behalf of this answering defendant, that performance of each obligation was excused due to impossibility or impracticability in each instance.

AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That each and every cause of action set forth in the second amended complaint is barred because the second amended complaint fails to state a cause of action against this answering defendant since plaintiff failed to give this answering defendant proper notice, in a timely and reasonable manner, of any such alleged breach, nor were this answering defendant afforded an opportunity to fulfill obligations in each instance.

AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That this answering defendant duly performed, satisfied, and discharged all duties and obligations it may have owed to the plaintiff arising out of any and all agreements, representations, or contracts made by it or on behalf of this answering defendant pursuant to the novations reached between this defendant and plaintiff and this action is therefore barred by the provisions of California Civil Code §§1530 and 1531.

AS A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That this answering defendant duly performed, satisfied, and discharged all duties and

obligations it may have owed to the plaintiff arising out of any and all agreements, representations, or contracts made by it or on behalf of this answering defendant which were subsequently accepted, fully executed, and therefore satisfied pursuant to the provisions of California Civil Code §§ 1521, 1522, 1523, and 1524.

AS AN EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That this answering defendant duly performed, satisfied, and discharged all duties and obligations it may have owed to the plaintiff arising out of any and all agreements, representations, or contracts made by it or on behalf of this answering defendant pursuant to the releases between said parties as provided by California Civil Code §1541.

AS A NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That no act or omission of this answering defendant was a substantial factor in bringing about the damages alleged by the plaintiff, nor was any act or omission a contributing cause thereof. Any alleged acts or omission of this answering defendant was superceded by the acts or omissions of others, including plaintiff and/or other individuals or entities not named as defendants in the second amended complaint, which were the independent, intervening, and proximate cause of the damage or loss allegedly sustained by plaintiff.

AS A TWENTIETH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That by the terms of theirs contract, this answering defendant is not responsible for the method or means of construction used by the contractor, nor are this answering defendant responsible for the contractor's failure to carry out the work in accordance with the contract documents.

AS A TWENTY- FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DFENDANT ALLEGES:

That this first amended second amended complaint, and each alleged cause of action thereof, fails to state a cause of action against this answering defendant as there is no privity between plaintiff and this answering defendant.

AS A TWENTY-SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff failed to meet conditions precedent, and as a result, breached the contract.

AS A TWENTY-THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That defendant is informed and believes, and upon such information and belief allege, that said plaintiff's first amended second amended complaint, and each alleged cause of action thereof, is absolutely barred by virtue of plaintiff's knowing and voluntary waiver of any further obligations or liabilities of this answering defendant, if any there were.

AS A TWENTY-FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's first amended second amended complaint, and each alleged cause of action thereof, fails to state facts sufficient to constitute a cause of action for implied contractual indemnity.

AS A TWENTY-FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That defendant is informed and believe, and upon such information and belief allege

that plaintiff, by and through their conduct, acts and deeds have caused defendant to change its position, to their detriment and prejudice. Plaintiff's first amended second amended complaint, and each alleged cause of action thereof, is therefore absolutely barred by the equitable doctrine of estoppel.

AS A TWENTY-SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That defendant is informed and believes, and upon such information and belief allege that said plaintiff is in material breach of the contracts or agreements alleged in its first amended second amended complaint, if any there were, and such material breach relieves defendant of any further obligations under said alleged contracts or agreements, if any there were.

AS A TWENTY-SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, fails to state facts, or to allege claims, which would impose joint and several liability for any of the damages claimed by any party against this answering defendant. Any liability of this answering defendant, which liability is expressly denied, would therefore be limited to those injuries, losses, or damages, if any there were, for which these answering defendant's actionable conduct, if any, was a primary contributing factor.

AS A TWENTY-EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, fails to state facts sufficient to constitute a cause of action for indemnity or contribution based on an alleged breach of express or implied warranty.

AS A TWENTY-NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, fails to state facts sufficient to constitute a cause of action for total implied indemnity.

AS A THIRTIETH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, fails to state facts sufficient to constitute a cause of action for indemnity or contribution based upon strict liability.

THIRTY-FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANTS ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, fails to state facts sufficient to constitute a cause of action for indemnity or contribution base upon a special relationship.

AS A THIRTY-SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, fails to state facts sufficient to support a claim or award of attorneys' fees under any legal or equitable theory.

AS A THIRTY-THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof,

fails to state facts sufficient to constitute a cause of action for express contractual indemnity against this answering defendant.

AS A THIRTY-FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DFENDANT ALLEGES:

That defendant is entitled to a set-off for sums expended on behalf of plaintiff.

AS A THIRTY-FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, is barred by the statutes of limitation set forth in the California Code of Civil Procedure, commencing with §335 and continuing through §349.4, more particularly, but not limited to, the following: §§337(1), 337.1, 337.15, 338, 339, 340, 343; and by §§2607(3)(a) and 2725(1) and (2) of the Uniform Commercial Code of the State of California.

AS A THIRTY-SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, is barred by the following provisions of the Uniform Commercial Code: §§ 1201(25)(c), 2601, 2602(1), 2513(1) and (3), 2510(1), 2605(1)(a) and (b), 2606(1)(a) and (b), 2607, 2715(2)(a), and 2719(3).

AS A THIRTY-SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's second amended complaint, and each alleged cause of action thereof, is barred by the provisions of California Civil Code §2784.5.

AS A THIRTY-EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE

SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff's claims herein are barred by the equitable doctrine of unclean hands.

AS A THIRTY-NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That plaintiff has unreasonably delayed in bringing this action to the prejudice of this answering defendant and is therefore barred from bringing this action by the doctrine of laches.

AS A FORTIETH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, AND EACH ALLEGED CAUSE OF ACTION THEREOF, THIS DEFENDANT ALLEGES:

That the court lacks jurisdiction over the second amended complaint, and each of its causes of action, by virtue of plaintiff's failure to comply with the local rules of this court and that plaintiff is accordingly barred from seeking or obtaining any relief from this answering defendant.

WHEREFORE, defendant prays that plaintiff take nothing by reason of its second amended complaint on file herein, for costs and disbursements in this action, and for such other and further relief as the court may deem just and proper; and that if this answering defendant is found liable, the degree of responsibility and liability for the resulting damages be determined and this answering defendant be held liable only for that portion of the total damages in proportion to this answering defendant's liability for the same.

Dated: October 9, 1997

ROGER, SCOTT & HELMER LLP

By: _____
Albert P. Blake, Jr.
Attorneys for Defendant
TARA COATINGS, INC.

EDGEWATER ISLE HOMEOWNERS ASSOCIATION vs. THE ANDEN GROUP
SAN MATE COUNTY SUPERIOR COURT NO. 388872

PROOF OF SERVICE

I, Shelladie A. Anderson, declare that:

I am, and was at the time of the service hereinafter mentioned, a citizen of the United States of America, employed in the County of San Mateo, California. I am over the age of eighteen years and not a party to the within cause; my business address is 900 Veterans Boulevard, Suite 430, Redwood City, California, 94063.

On October 9, 1997, I caused to be served the following:

TARA COATINGS, INC.'S ANSWER TO SECOND AMENDEDCOMPLAINT

on the parties involved addressed as follows:

SEE ATTACHED SERVICE LIST

☐ BY PERSONAL DELIVERY: I caused each such envelope to be delivered by hand to the offices of each addressee above. (CCP Section 1010)

☐ BY CERTIFIED MAIL-RETURN RECEIPT REQUESTED: I caused each such envelope above, with postage thereon fully prepaid, to be placed in the United States mail at Redwood City, California. (CCP Section 1013(a)(1))

☒ BY MAIL: I caused each such envelope above, with postage thereon fully prepaid, to be placed in the United States mail at Redwood City, California. (CCP Section 1013(a)(1))

☐ VIA FACSIMILE TRANSMISSION (CCP Section 1013)

I am readily familiar with the business practice for collection and processing of mail in this office. That in the ordinary course of business said document would be deposited with the U. S. Postal Service in Redwood City on that same day. I understand that service shall be presumed invalid upon motion of a party served if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained on the affidavit.

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

Executed this 9th day of October, 1997.

Shelladie A. Anderson

EDGEWATER ISLE HOA, INC., vs. THE ANDEN GROUP
SAN MATEO COUNTY SUPERIOR COURT ACTION NO. 388872

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1997 OCT 10 P 2:27

FILED
CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

Set 11-13-97

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 35 (Endorsed-Filed October 6, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 7, 1997 at Burlingame, California.

Christine L. Britton

10/07/97

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

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Thomas A. Miller, Esq. Law Offices of Thomas A. Miller 4695 Mac Arthur Court, Suite #1150 Newport Beach, CA 92660 (714) 252-9150 (714) 442-0646 (Fax)	Plaintiff, Edgewater Isle HOA, Inc. (in 7/28/97)
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FILED
SAN MATEO COUNTY
OCT - 7 1997
Clerk of the Superior Court
By
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., a Non-Profit Mutual Benefit Corporation, on behalf of itself and as representative of all EDGEWATER ISLE HOMEOWNERS,

Plaintiff,

vs.

THE ANDEN GROUP, et al.,

Defendants.

AND RELATED CROSS-ACTIONS.

Case No. 388872

ASSOCIATION OF ATTORNEYS

PLEASE TAKE NOTICE that the law offices of STEPHAN & CONROY hereby associates the LAW OFFICES OF CHARLOTTE M. VENNER, located at 50 Fremont Street, Suite 2550, San Francisco, California 94105; Telephone: (415) 778-4680; Facsimile: (415) 778-4690, as co-attorneys of record for defendant

T&D TILE COMPANY, INC.

Please see that both firms are included on your service lists.

Dated: 9/24/97

STEPHAN & CONROY

Paul E. Stephan

Dated: 9/30/97

LAW OFFICES OF CHARLOTTE M. VENNER

Clay A. Coelho

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PROOF OF SERVICE BY MAIL
[CCP 1013(a) and CCP 2015.5]

I, the undersigned, declare:

I am, and was at all times herein mentioned, employed in the City and County of San Francisco, State of California. I am over 18 years of age and not a party to the within action. My business address is 50 Fremont Street, Suite 2550, San Francisco, California 94105.

On the date set forth below, I served the within ASSOCIATION OF ATTORNEYS on the interested parties in this action by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid in the United States mail at San Francisco, California, addressed as follows:

SEE ATTACHED SERVICE LIST

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing, that the correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of a party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in the affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 1, 1997 at San Francisco, California.

Linnea C. Smedley

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Re: **Edgewater Isle HOA v. The Anden Group, et al.**
San Mateo County Superior Court No. 388872

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October 1, 1997

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SAN MATEO COUNTY SUPERIOR COURT
Department 8
401 Marshall Street
Redwood City, CA 94063

Re: **Edgewater v. The Anden Group, et al.**
San Mateo County Superior Court, Case No. 388872

Dear Judge Forcum:

This office represents Sierra Lumber & Fence Company, a recently served defendant in the matter referenced above. Earlier, Sierra Lumber had been named a cross-defendant by The Anden Group, but had been dismissed by the The Anden Group on February 13, 1997, without prejudice.

Most recently, Sierra Lumber was served with process and has just now filed an answer to the Complaint. We are informed that this matter has a trial date in early December, 1997.

It would seem appropriate, at this time, to continue the trial date so that the newly served defendants can undertake discovery or to sever the newly served defendants out from the principal action.

As this litigation has been managed by Mr. Nagle's office, I thought it appropriate to inform him and the court of Sierra Lumber's position on this matter. If the court would like a formal motion, please advise. While I

Jen - Please call Mr. Churchill — This needs to be dealt with by way of a formal motion with notice to all parties, in case. 10-8-97

Mr. Churchill notified of → and said "Thanks" Jen

cannot speak for the other newly served defendants in this matter, I am quite certain that their thoughts on this issue parallel my own.

Very truly yours,

HOWARD L. CHURCHILL

HLC:rrg

cc: William L. Nagle, Special Master
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Charles R. Gaskill, File No. 93713
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FILED
SAN MATEO COUNTY
OCT - 6 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served AMENDED PRE-TRIAL ORDER NO. 32 (Endorsed-Filed September 15, 1997) AND PRE-TRIAL ORDER NO. 33 (Endorsed-Filed September 23, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 1, 1997 at Burlingame, California.

Christine L. Britton

10/01/97

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

Proof of Service List

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Norman La Force, Esq. Law Offices of F. Ross Adkins 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200 (415) 981-2097 (Fax)	Tara Coatings
Mr. Donald W. Simons, Jr., Esq. Frank Pinto Adjusters, Inc. 1504 Franklin Street, Suite #308 Oakland, CA 94612 (510) 834-1474 (510) 834-7032 (Fax) (510) 654-1425 (Hm Fax)	Courtesy Copy

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1997 OCT -6 P 3:55

FILED
CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

PRE-TRIAL ORDER NO. 35

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. The date by which plaintiff shall serve its final Statement of Claims is extended from October 1, 1997 to October 17, 1997.

2. Discovery shall be stayed and limited until October 8, 1997.

3. The firm of Jilio & Associates is designated as the primary court reporting agency and central document depository for this case.

(a) By October 8, 1997, all parties shall deposit their documents into the document depository at: Jilio & Associates , c/o San Francisco Reporting Service, 5 Third Street, Suite #815, The Hearst Building, San Francisco, CA 94103, telephone (415) 777-2111 or (888) 575-3376, telecopier (415) 777-3836.

(b) Plaintiff's former counsel, Law Offices of Michael B. Allen, shall release to plaintiff's new counsel, Law Offices of Thomas E. Miller, the approximately 35 boxes of HOA documents that are currently being stored in Mr. Allen's office. Mr. Miller's office shall arrange to have these documents deposited into the document depository pursuant to ¶ 3(a) above.

(c) Unless otherwise noticed, all expert, person(s) most knowledgeable, and homeowner depositions shall be held at the offices of Jilio & Associates. All parties shall deposit their expert and person(s) most knowledgeable job files into the central document depository at Jilio & Associates.

4. The Status Conference with plaintiff, The Anden Group, and O'Brien & Hicks on October 7, 1997 at 10:00 a.m. is vacated.

5. The Special Master shall meet with Bruce Mayfield, Esq. and Marisa D'Amico, Esq. only on October 2, 1997 at 1:00 p.m. at the offices of the Special Master, 345 Lorton Avenue, Suite #204, Burlingame, California.

6. The Special Master shall hold a Status Conference with counsel for plaintiff, The Anden Group, O'Brien & Hicks, and all subcontractors on October 7, 1997 at 9:30 a.m. at the offices of the Special Master.

7. The Special Master shall meet with counsel and coverage counsel for plaintiff, The Anden Group, and O'Brien & Hicks only on October 28, 1997 at 11:00 a.m. at the offices of the Special Master.

APPROVED AND RECOMMENDED:

DATED: September 19, 1997

William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: 10-6-97

Judge of the Superior Court

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Attorneys for Defendant/Cross-Defendant
SILVA FENCE COMPANY

FILED
SAN MATEO COUNTY
OCT - 2 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., Plaintiffs, v. THE ANDEN GROUP, THE ANDEN CORPORATION, ET AL., Defendants. AND RELATED CROSS-ACTION.	CASE NO.: 388872 NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that Donald L. Sullivan, Esq. of Clapp, Moroney, Bellagamba, Davis and Vucinich, A Professional Corporation, 4400 Bohannon Drive, Suite 100, Menlo Park, California, 94025, will be representing defendant/cross-defendant SILVA FENCE COMPANY in the above-entitled matter, along with David N. Poll, Esq. of Collins & Schlothauer, 60 South Market Street, Suite 1100, San Jose, California, 95113, (408)298-5161; Fax (408)297-5766.

Dated: September 30, 1997

CLAPP, MORONEY, BELLAGAMBA,
DAVIS and VUCINICH

By _____
DONALD L. SULLIVAN

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Edgewater Isle HOA v. The Anden Group, et al.
San Mateo County, Superior Court, Case No: 388872

PROOF OF SERVICE BY MAIL

I, the undersigned, hereby declare that I am over the age of eighteen years and not a party to the within action. My business address is 4400 Bohannon Drive, Suite 100, Menlo Park, California 94025.

On the date indicated below, I served by mail a true copy of the following documents:

NOTICE OF APPEARANCE

I am readily familiar with the practice of this business for collection and processing of documents for mailing with the United States Postal Service. Documents so collected and processed are placed for collection and deposit with the United States Postal Service that same day in the ordinary course of business. The above-referenced document(s) were placed in (a) sealed envelope(s) with postage thereon fully prepaid, addressed to each of the below listed parties and such envelope(s) was (were) placed for collection and deposit with the United States Postal Service on the date listed below at 4400 Bohannon Drive, Suite 100, Menlo Park, California 94025.

SEE ATTACHED LIST.

Executed on September 30, 1997 at Menlo Park, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Loraine Pereira

Loraine Pereira

F:\DATA\DOCS\0026\9326\PROOF

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1997 OCT -1 A 10:04

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

PRE-TRIAL ORDER NO. 34

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. Plaintiff's Motion to Augment Expert Witness List came on regularly for hearing on September 3, 1997 at 2:00 p.m. in Department 19 of the San Mateo County Superior Court, Special Master William L. Nagle presiding. Thomas Miller and Bruce Mayfield appeared on behalf of plaintiff Edgewater Isle Homeowners Association; Marisa L. D'Amico appeared on behalf of defendant, The Anden Group; other appearances were by Josh Shinnick on behalf of O'Brien & Hicks; Chester Moore on behalf of Alcal Roofing & Insulation; Sandy Kaplan on behalf of Fisk, Firenze & McLean and Daniel Smith Plastering; Al Blake on behalf of Tara Coatings; and Helen Baumann on behalf of San Carlos Sheet Metal.

The Special Master, having reviewed all the papers and based on oral argument:

The Motion of plaintiff is DENIED without prejudice to the issue of disclosing two possible supplemental experts in the area of dryrot and waterproofing and a supplemental expert in the area of civil engineering pursuant to the intent of Pre-Trial Order No. 28.

2. After the hearing and through discussions with counsel and the Special Master, it was agreed as follows:

The investigation and testing, which was underway at the site at the time of the substitution of attorneys, is to be completed. This investigation will commence on or about September 22, 1997. Plaintiff will provide all parties with a complete and detailed schedule of this investigation, so that any party who wishes to may attend with experts. This investigation and site inspection is to be conducted on an issue-by-issue basis, and is to be completed no later than September 30, 1997.

3. Starting October 1, 1997, depositions will commence.

4. Expert depositions will proceed as follows: Plaintiff's experts in each area of expertise will proceed first; then defense experts in the same areas of expertise, then subcontractor experts. Expert depositions will occur on an issue-by-issue basis as follows: structural, architectural (including drywall and fire resistive construction, electrical, plumbing, mechanical, and HVAC), soils/civil/landscaping/foundations, miscellaneous.

5. The protocol of expert depositions shall be as set forth in the Order previously submitted by the Law Offices of Thomas E. Miller. This will be circulated within five (5) days from this Order being filed.

6. Percipient witness and Person(s) Most Knowledgeable depositions will commence at a date to be agreed upon by the Discovery Committee at the next meeting.

Some parties have already submitted requested names, which depositions will be scheduled. All parties have until September 17, 1997 to submit the Designation of Person(s) Most Knowledgeable for percipient depositions. Failure to do so will result in issuance of an Order to Show Cause why sanctions should not be imposed.

7. All parties who have appeared or answered and have not already done so shall submit the following by September 16, 1997, in compliance with Pre-Trial Order No. 2 filed on February 17, 1995 herein:

(a) Statement of Insurance (all insurance information from 1984 through the present, including excess as required by Pre-Trial Order No. 2);

(b) Statement of Scope of Work; and

(c) Notice of Deposit of Documents and deposit thereof, or Notice of Inability to Comply.

Failure to comply will result in issuance of an Order to Show Cause why sanctions should not be imposed.

8. A Discovery Committee meeting was held on September 15, 1997 at 11:00 a.m. at the law office of Bishop, Barry, Howe, Haney & Ryder, 275 Battery Street, 12th Floor, San Francisco, California.

9. The discovery stay in this matter has been lifted. In the interest of expediency, the following is ordered:

On October 1, 1997, plaintiff shall serve on all parties a Final Statement of Claims/Defects; this will include the following information: The specific defect; the location of that defect; the number of locations observed for each defect versus the number of defects found; every witness who has knowledge of the existence of the defect; every document which supports the existence of the defect; every witness who can or will testify to the existence of the alleged defect at trial; every document which supports the existence of the alleged defect.

If these responses are not provided on October 1, 1997, then written discovery will be served on plaintiff, and other necessary parties.

APPROVED AND RECOMMENDED:

DATED: September 19, 1997

William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: 9-29-97

Judge of the Superior Court

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by [signature] DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

PRE-TRIAL ORDER NO. 36

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that the Special Master shall hold a Status Conference with counsel and coverage counsel for Plaintiff, The Anden Group, and O'Brien & Hicks only on October 7, 1997 at 10:00 a.m. at the offices of the Special Master, 345 Lorton Avenue, Suite #204, Burlingame, California.

APPROVED AND RECOMMENDED:

DATED: September 19, 1997

[signature]
William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: 10-6-97

[signature]
Judge of the Superior Court

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James M. Ganion (Bar No. 183899)
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Attorneys for Defendant **CHRISP COMPANY**

FILED
SAN MATEO COUNTY
SEP 26 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., a non-profit mutual benefit corporation, on behalf of itself and as representative of all EDGEWATER ISLE homeowners, Plaintiffs, v. THE ANDEN GROUP, a California general partnership; THE ANDEN CORPORATION, a California corporation; KLINGBELL GROUP, INC., an Ohio corporation, ESDEN PARTNERS, a California limited partnership; MDG ASSOCIATES, LTD., a California limited partnership; ESR CORPORATION, a California corporation; TMD CORPORATION, a California corporation; GLORIA DEVELOPMENT CO., INC., a California corporation; O'BRIEN & HICKS, INC., a California corporation; O'BRIEN & HICKS (S) 1988 & BEYOND, LTD., a business, organization unknown; MIDEN CORPORATION, a California corporation; and DOES 1 to 200, inclusive, Defendants.	Case No. 388872 **ANSWER TO COMPLAINT**

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ORIGINAL

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ORIGINAL

COMES NOW defendant CHRISP COMPANY answering all causes of action in the Complaint of Plaintiff EDGEWATER ISLE HOMEOWNERS ASSOCIATION, admits, denies and alleges as follows:

1. Under the provisions of California Code of Civil Procedure section 431.30, this answering defendant denies, both generally and specifically, each and every allegation contained in the Complaint, and the whole thereof, and each and every alleged cause of action thereof, and denies that plaintiff sustained damages as alleged in any sum or sums or at all, by reason of any alleged act, breach or omission on the part of this answering defendant.

2. By way of further answer to the Complaint, this answering defendant denies that it was negligent as alleged, or at all; this answering defendant further denies that plaintiff sustained any loss, damage or detriment, or damage in any sum or amount whatsoever, as a result of any act or acts, fault, carelessness, recklessness, or breach of warranty on the part of this answering defendant; this answering defendant lacks information or belief sufficient to enable it to answer the allegations concerning the nature and extent of the damages and losses of plaintiff in the underlying action, if any, and, basing its denial upon said lack of information and belief, denies any and all damages thereof generally and specifically, and said grounds, for the purpose of placing the question of the nature and extent of said damages and losses in issue, and thus denies that plaintiff was damaged as alleged or at all.

FIRST AFFIRMATIVE DEFENSE

FOR A FIRST AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant alleges that the Complaint, and each and every cause of action stated therein, fails to state facts sufficient to constitute a cause of action or any cause of action as against this answering defendant.

SECOND AFFIRMATIVE DEFENSE

FOR A SECOND AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and

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believes, and thereon alleges that, as to each alleged cause of action, plaintiff's alleged damages, if any, were and are the result of an Act of God.

THIRD AFFIRMATIVE DEFENSE

FOR A THIRD AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that, if plaintiff herein suffered or sustained any loss, injury, damage or detriment, the same was directly and proximately caused and contributed to by the conduct, acts, omissions, activities, carelessness, recklessness and/or negligence of plaintiff, thereby completely or partially barring plaintiff's recovery herein.

FOURTH AFFIRMATIVE DEFENSE

FOR A FOURTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that it is not legally responsible in any way or fashion with respect to the damages and injuries claimed in the Complaint; however, if this answering defendant is subject to any liability to plaintiff or any other party, it will be due, in whole or in part, to the strict liability, breach of warranty, acts, omissions, activities, carelessness, recklessness and/or negligence of others, and therefore, any recovery obtained by plaintiff or any other party against this answering defendant should be reduced in proportion to the respective negligence, fault, and/or legal responsibility of other parties, persons and entities including, but not limited to, their agents, representatives, servants and/or employees who contributed to and/or caused any such injury and/or damages in accordance with the law of comparative liability; the liability of this answering defendant, if any, is limited in direct proportion to the percentage of fault actually attributed to this answering defendant.

FIFTH AFFIRMATIVE DEFENSE

FOR A FIFTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that it is not legally responsible for the acts and/or omissions of those defendants named herein as DOES 1 through 100, inclusive.

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SIXTH AFFIRMATIVE DEFENSE

FOR A SIXTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that, at the time and place of the incident alleged in plaintiff's Complaint, plaintiff knew of the dangers and risks incident to their respective undertaking, but despite such knowledge, they freely and voluntarily assumed and exposed themselves to all risks of harm and the consequential injuries and damages, if any, therefrom.

SEVENTH AFFIRMATIVE DEFENSE

FOR A SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the Complaint and each cause of action contained therein is barred by the provisions of California Code of Civil Procedure including, but not limited to, sections 337, 337.1, 337.15, 338, 339, 340(3), and 343.

EIGHTH AFFIRMATIVE DEFENSE

FOR AN EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that, as to each alleged cause of action, plaintiff or any other party has failed, refused and/or negligently failed to take reasonable steps to mitigate its alleged damages, if any, thus barring or diminishing plaintiff's recovery herein.

NINTH AFFIRMATIVE DEFENSE

FOR A NINTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the Complaint, and each purported cause of action contained therein, was brought without reasonable cause and without a good faith belief that there was a justiciable controversy under the facts and the law to warrant the filing of said complaint against this answering defendant; that plaintiff is therefore responsible for all necessary and reasonable defense costs, including attorneys' fees, incurred by this

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answering defendant, as more particularly set forth in California Code of Civil Procedure section 128.5.

TENTH AFFIRMATIVE DEFENSE

FOR A TENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that plaintiff has unreasonably delayed in filing its Complaint and in notifying this answering defendant of the alleged harm and damages, and the basis for the causes of action alleged against it, all of which has unduly and severely prejudiced this answering defendant in its defense of the action, thereby barring or diminishing plaintiff's recovery herein under the doctrine of estoppel.

ELEVENTH AFFIRMATIVE DEFENSE

FOR AN ELEVENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and based thereon alleges, that all work and services performed by this answering defendant met the standard of care known at the time the work was performed and was the recognized state of the art at all relevant times herein.

TWELFTH AFFIRMATIVE DEFENSE

FOR A TWELFTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant denies any wrongdoing, but alleges that in any event, plaintiff is barred from any recovery for the acts alleged in the Complaint because plaintiff was in pari delicto with this answering defendant.

THIRTEENTH AFFIRMATIVE DEFENSE

FOR A THIRTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that by virtue of plaintiff's unlawful, immoral, careless, negligent and/or other wrongful conduct, plaintiff should be barred from recovery against this answering defendant by the equitable doctrine of unclean hands.

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FOURTEENTH AFFIRMATIVE DEFENSE

FOR A FOURTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the contract in issue between this answering defendant and plaintiff were unconscionable at the time it was made and therefore remains unenforceable. In the alternative, application of the unconscionable contract and the clauses contained therein should be limited so as to avoid unduly oppressive result

FIFTEENTH AFFIRMATIVE DEFENSE

FOR A FIFTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the contract in issue between this answering defendant and plaintiff contained nonnegotiable terms and conditions that exclusively benefitted the plaintiff to the detriment of this answering defendant; as such, the alleged contract is one of adhesion; any ambiguities in the terms and conditions must be resolved against plaintiff as the drafter, and the contract must be enforced, if at all, in accordance with the reasonable expectations of this answering defendant.

SIXTEENTH AFFIRMATIVE DEFENSE

FOR A SIXTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the contract in issue between this answering defendant and plaintiff contained vague, overbroad, unclear and/or ambiguous terms and/or conditions that must be interpreted against plaintiff as drafter and in light of the reasonable expectations of this answering defendant.

SEVENTEENTH AFFIRMATIVE DEFENSE

FOR A SEVENTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that there was a lack of privity between this answering defendant and plaintiff, thus denying, barring or diminishing plaintiff's recovery herein.

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EIGHTEENTH AFFIRMATIVE DEFENSE

FOR AN EIGHTEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the terms and/or conditions of any and all contracts purportedly entered into between this answering defendant and plaintiff are not specifically set forth, and thus cannot be ascertained, thus barring or diminishing plaintiff's recovery herein.

NINTEENTH AFFIRMATIVE DEFENSE

FOR A NINETEENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that, if the materials and or services described in the Complaint were supplied and/or constructed by this answering defendant, they were so supplied and/or constructed in accordance with plans and/or specifications supplied to this answering defendant by persons other than this answering defendant. Defendant is further informed and believes, and thereon alleges that any defects in workmanship or materials were therefore caused by the deficiencies in the plans and/or specifications supplied to this answering defendant, which deficiencies were neither known to this defendant or discoverable by this defendant with the exercise of reasonable care.

TWENTIETH AFFIRMATIVE DEFENSE

FOR A TWENTIETH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that any and all contracts to which this answering defendant was alleged to have been a party were mutually rescinded, thereby precluding any breach thereof.

TWENTY-FIRST AFFIRMATIVE DEFENSE

FOR A TWENTY-FIRST AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed

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and believes, and thereon alleges that plaintiff lacks capacity to sue this answering defendant.

TWENTY-SECOND AFFIRMATIVE DEFENSE

FOR A TWENTY-THIRD AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that this answering defendant, at all times alleged by plaintiff, complied with the standard of care to this answering defendant's industry at the times and locations of the alleged services rendered by this answering defendant, thereby barring and/or precluding plaintiff from recovery herein.

TWENTY-THIRD AFFIRMATIVE DEFENSE

FOR A TWENTY-FOURTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the plaintiff consented, approved and/or ratified the actions and performances allegedly made by this answering defendant, by the plaintiff's supervision, inspection and/or acceptance of this defendant's work, thereby barring plaintiff from recovering any damages or relief from this answering defendant.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

FOR A TWENTY-FIFTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the plaintiff has failed to give proper and adequate notice of any claimed alleged defects and/or damages pertaining to the premises that are the subject of this action, and has failed to further allow this answering defendant a sufficient and reasonable opportunity to cure such alleged defects and/or damages or make necessary repairs, if indeed such repairs are needed.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

FOR A TWENTY-FIFTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the damages sustained by plaintiffs herein, if any,

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were the result of plaintiffs and/or other parties mishandling the referenced product contrary to recommendations made by this answering defendant and/or recommendations known throughout the industry.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

FOR A TWENTY-SIXTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the defect, if any, in any referenced product was not known nor could it have been known to this answering defendant.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

FOR A TWENTY-SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that defects which plaintiff attributes to this answering defendant, if any, were the result of acts or omissions or others which acts or omissions were not and could not be foreseen by this answering defendant.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

FOR A TWENTY-EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that This answering defendant cannot be held liable to plaintiffs because this answering defendant is informed and believes and thereon alleges that other parties owed a nondelegable duty of care to plaintiffs, which duty, if breached at all, was not breached through any conduct legally attributable to this answering defendant.

TWENTY-NINTH AFFIRMATIVE DEFENSE

FOR A TWENTY-NINTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that To the extent any warranty or guarantee existed, the same has expired, and as such acts as a bar to recovery hereunder.

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THIRTIETH AFFIRMATIVE DEFENSE

FOR A THIRTIETH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that this work and/or activities of this responding defendant was done in a professional and satisfactory manner.

THIRTY-FIRST AFFIRMATIVE DEFENSE

FOR A THIRTY-FIRST AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that prior to the happening of the defect and/or incident(s) referred to in the Complaint, the product referred to therein had been misused, abused, changed, altered, neglected and otherwise left in disrepair by other persons, individuals, entities and parties, which parties may include plaintiffs, and that such changes, alterations, misuse and abuse were the sole proximate cause of damages referred to in the Complaint, and the damages, if any, suffered by the plaintiffs and thus any recovery against this answering defendant is barred.

THIRTY-SECOND AFFIRMATIVE DEFENSE

FOR A THIRTY-SECOND AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the plaintiffs engaged in conduct and activities sufficient to constitute a waiver of any alleged breach of duty, negligence, act, omission or any other conduct, if any, as set forth in the Complaint.

THIRTY-THIRD AFFIRMATIVE DEFENSE

FOR A THIRTY-THIRD AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that the injuries and damages of which the plaintiffs complain were proximately caused by or contributed to by the acts of other defendants, persons and/or entities and that said acts were an intervening and superseding cause of the injuries

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and damages, if any, of which the plaintiffs complain, thus barring plaintiffs from any recovery against this answering defendant.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

FOR A THIRTY-FOURTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that plaintiffs expressly, voluntarily, and knowingly assumed all risks about which it complains in its Complaint and, therefore, is barred either totally or to the extent of said assumption of any damages.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

FOR A THIRTY-FIFTH AND SEPARATE DEFENSE AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges that this answering defendant has appropriately, completely and fully performed and discharged any and all obligations and legal duties arising under the matters alleged in the Complaint.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

FOR A THIRTY-SIXTH AND SEPARATE DEFENSE to the Complaint and all causes of action contained therein, this answering defendant is informed and believes, and thereon alleges there was, has been, and continues to be a material failure of consideration on the part of plaintiffs herein, as a consequence of which failure this answering defendant's duty of performance has been discharged.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

FOR A THIRTY-SEVENTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint at all times herein and all causes of action contained therein, this answering defendant is informed and believes, and based thereon alleges, that if there was any defect in the work or materials referred to in the Complaint at the time of said damages, that such defect did not exist at the time said materials left the possession of this answering defendant and was caused by the misuse, abuse, changes, modifications, improper maintenance, and alterations

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of others, including plaintiffs herein, and that said damages were caused by such misuse, abuse, changes, alterations, lack of maintenance and modifications.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

FOR A THIRTY-EIGHTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and based thereon alleges, that it did not breach any warranties, expressed or implied, and that no warranties, expressed or implied, arose in the instant situation

THIRTY-NINTH AFFIRMATIVE DEFENSE

FOR A THIRTY-NINTH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and based thereon alleges that plaintiff lacks capacity to sue this answering defendant.

FORTIETH AFFIRMATIVE DEFENSE

FOR A FORTIETH AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and based thereon alleges that this answering defendant had a reasonable basis for believing the truthfulness of its representations, if any statements were made, to plaintiff.

FORTY-FIRST AFFIRMATIVE DEFENSE

FOR A FORTY-FIRST AND SEPARATE AFFIRMATIVE DEFENSE to the Complaint, and all causes of action contained therein, this answering defendant is informed and believes, and based thereon alleges that the Complaint, and each purported cause of action contained therein, was brought without reasonable cause and without a good faith belief that there was a justiciable controversy under the facts and the law to warrant the filing of said Complaint against this answering defendant; that plaintiffs are therefore responsible for all necessary and reasonable defense costs, including attorneys' fees, incurred by this answering defendant, as more particularly set forth in California Code of Civil Procedure section 128.5.

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WHEREFORE, defendant CHRISP COMPANY prays for relief as follows:

1. That plaintiffs take nothing against defendant;

2. That defendant have and recover its costs of suit herein;

3. That defendant have and recover its reasonableattorneys' fees incurred herein; and

4. For such other and further relief as the Court may deem just and proper.

DATED: September 23, 1997

WOOD, SMITH, HENNING & ~~BERMAN~~ LLP

By: _____
DANIEL A. BERMAN
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Attorneys for Defendant **CHRISP COMPANY**

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA **COUNTY OF SAN MATEO** **401 Marshall Street** **Redwood City, California 94063-1636**	FOR COURT USE ONLY FILED SAN MATEO COUNTY SEP 2 6 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
CASE: **EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC. vs. THE ANDEN GROUP; et al.**	
ATTORNEY(S) NAME AND ADDRESS: **Daniel A. Berman (Bar No. 161696)** **James M. Ganion (Bar No. 183899)** **WOOD, SMITH, HENNING & BERMAN LLP** **801 South Figueroa Street, Ninth Floor** **Los Angeles, California 90017-2573** **Phone: (213) 622-9300 Fax: (213) 622-9394**	
ATTORNEY(S) FOR: **CHRISP COMPANY**	CASE NO.: **388872**

PROOF OF SERVICE BY MAIL
(C.C.P. § 1013a and § 2015.5)

I am employed in the County of Los Angeles, State of California; I am over the age of 18 years and not a party to the within action; my business address is 801 South Figueroa Street, Ninth Floor, Los Angeles, California 90017-2573.

On September 24, 1997, I served the foregoing document described as: **ANSWER TO COMPLAINT** on the interested parties in said action in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

I am readily familiar with Wood, Smith, Henning & Berman LLP's practice for the collection and processing of mail with the United States Postal Service; such envelope will be deposited with the United States Postal Service on the above date in the ordinary course of business at the business address shown above; and such envelope was placed for collection and mailing on the above date according to Wood, Smith, Henning & Berman LLP's ordinary business practices.

Executed on September 24, 1997, at Los Angeles, California.

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

Valerie Pierson

Valerie Pierson, Declarant

SERVICE LIST

Edgewater Isle Homeowners Association vs. The Anden Group

Case No. 388872 (San Mateo County Superior Court)

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O/F

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9-15-97 #8

SET 11-13-97

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Attorneys for Defendants and Cross-Complainants THE ANDEN GROUP, ESDEN PARTNERS, MDG ASSOCIATES, LTD., ESR CORPORATION, TMD CORPORATION and MIDEN CORPORATION

1997 SEP 23 A 11:56

FILED
CLERK OF THE SUPERIOR COURT
BY [signature] DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants.

AND RELATED CROSS-ACTIONS.

Case No. 388872

~~[PROPOSED]~~ PRE-TRIAL ORDER NO. 33

388872

The Court having appointed William L. Nagle as Special Master in this matter, and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. Plaintiff will have until August 21, 1997 to make an Application for Supplemental Designation of Expert Witnesses and Request for Further Destructive Testing. This Application will be made by way of motion to the Special Master, Bill Nagle. All parties have until August 28, 1997 to serve an Opposition to this Application, also by motion/brief to Bill Nagle.

///

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2. The next discovery committee meeting is to be held on September 3, 1997 at 11:00 a.m., at the office of the Special Master. This will serve as a discovery committee/status conference, and will be the date that Bill Nagle renders his decision with respect to plaintiff's application re: further designation of experts and destructive testing. All parties are invited to attend.

3. If, on September 3, 1997, plaintiff is allowed to conduct further destructive testing, plaintiff is to submit a comprehensive schedule, including dates, times, locations, issues being tested, etc. within five (5) days, by September 8, 1997.

4. There will be a status/settlement conference on September 12, 1997 at 9:30 a.m. at the San Mateo County Courthouse.

DATED: August 30, 1997

William L. Nagle, Esq.
SPECIAL MASTER

DATED: ~~August~~ 9-22, 1997

JUDGE OF THE SUPERIOR COURT

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FILED
SAN MATEO COUNTY

SEP 29 1997

Clerk of the Superior Court
By _____ DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS	Case No. 388872 NOTICE OF APPEARANCE

TO ALL PARTIES AND THEIR ATTORNEYS HEREIN:

PLEASE TAKE NOTICE that Defendant B.L. COHEN LANDSCAPE, hereby appears in this

///

///

///

///

action by and through its attorney.

Susan P. Grey, Esq.
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Dated: 9/15/97

DOMINION LAW GROUP

By: _____
Susan P. Grey
Attorneys for Defendant
B.L. Cohen Landscape, Inc.

PROOF OF SERVICE

I am employed in the County of Santa Clara, my business address is 1155 N. First Street, Suite 101, San Jose, California 95112. I am over the age of 18 and not a party to the foregoing action.

I am readily familiar with the business practice at my place of business for the collection and processing of correspondence for personal delivery, for mailing with United States Postal Service, for facsimile, and for overnight delivery by Federal Express, Express Mail, or other overnight service.

On September 17, 1997, I caused a copy of the following document(s):

NOTICE OF APPEARANCE and **STATEMENT OF INSURANCE**

to be served on the interested parties in this action by placing a true and correct copy thereof, enclosed in a sealed envelope, and addressed as follows:

*** SEE ATTACHED SERVICE LIST***

☒	MAIL:	Such correspondence was deposited with the United States Postal Service on the same day in the ordinary course of business.
☐	PERSONAL:	Such envelope was delivered by hand to the offices of the addressee.
☐	FAX:	Such document was faxed to the facsimile transmission machine with the facsimile machine number stated above.
☐	FEDERAL EXPRESS:	Such correspondence was deposited on the same day in the ordinary course of business with a facility regularly maintained by Federal Express.
☐	EXPRESS MAIL:	Such correspondence was deposited on the same day in the ordinary course of business with a facility regularly maintained by the United States Postal Service.

☐ OVERNIGHT DELIVERY: Such correspondence was deposited on the same day in the ordinary course of business to an authorized courier or a driver authorized by that courier to received documents.

I declare under penalty of perjury that the above is true and correct. Executed on September 17, 1997, at San Jose, California.

Vicky Lampe

Vicky K. Lampe

Edgewater Isle HOA v. The Anden Group, et al.
Case No. 388872

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FILED
SAN MATEO COUNTY

SEP 19 1997

Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., a non-profit mutual benefit corporation, on behalf of itself and as representative of all EDGEWATER ISLE homeowners,

Plaintiffs,

vs.

THE ANDEN GROUP, a California general partnership, THE ANDEN CORPORATION, a California corporation, et al.,

Defendants.
_____/

AND RELATED CROSS-ACTIONS.
_____/

No. 388872

DEFENDANT SIERRA LUMBER & FENCE COMPANY'S ANSWER TO SECOND AMENDED COMPLAINT OF EDGEWATER ISLE HOMEOWNERS ASSOCIATION

COMES NOW defendant, SIERRA LUMBER & FENCE COMPANY, a California corporation, erroneously sued herein as SIERRA LUMBER, answers the unverified Second Amended Complaint of EDGEWATER ISLE HOMEOWNERS ASSOCIATION filed herein by alleging as follows:

Under the provisions of Code of Civil Procedure §431.30, this answering defendant denies generally and specifically each and every allegation contained in

the Second Amended Complaint and the whole thereof, and each and every alleged cause of action thereof, and denies that plaintiff sustained any damages as alleged in any sum or sums, or at all, by reason of any act, breach or omission on the part of this answering defendant.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that the plaintiff, and each cause of action thereof, fails to state facts sufficient to constitute a cause of action against this answering defendant.

AS AND FOR A SECOND, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that any and all damages, if any, sustained or suffered by plaintiff were proximately and substantially caused and contributed to by the negligence of plaintiff itself, in that it failed to exercise ordinary and reasonable care or caution for its own well-being.

AS AND FOR A THIRD, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that this answering defendant is not legally responsible in any fashion with respect to damages and injuries claimed by the plaintiff in its pleadings; however, if this answering defendant is found to be legally responsible, then this answering defendant provisionally alleges that its legal responsibility is not the sole and proximate cause of the damages alleged by plaintiff, if any, are to be apportioned according to the respective fault and legal responsibility of all parties, persons and entities, or the agents, servants and employees who contributed to and/or caused said damage, according to proof presented at the time of trial.

AS AND FOR A FOURTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that plaintiff and each purported cause of action therein is barred

by the applicable statute of limitations, including, but not limited to sections 337, 337.1, 337.15, 338, 339 and 343 of the California Code of Civil Procedure.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that plaintiff's conduct relative to this answering defendant and the relationship between plaintiff and this answering defendant was such that plaintiff brings this lawsuit with unclean hands, and as such is estopped from pursuing these claims.

AS AND FOR A SIXTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that plaintiff failed to give timely or any adequate notice of the alleged breach of warranty, when the breach of warranty was or should have been discovered.

AS AND FOR A SEVENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that the conduct of plaintiff constituted active and primary negligence and/or other wrongful conduct which proximately contributed to whatever damages said plaintiff seeks, and that plaintiff's purported causes of action for indemnity and/or contribution are barred by said active conduct; this answering defendant further alleges and contends that it was not negligent or in any way at fault, and that the conduct of this answering defendant, if any, was passive, inactive and secondary.

AS AND FOR AN EIGHTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that the Second Amended Complaint filed by plaintiff against this answering defendant was brought without reasonable care and without a good faith belief that there was a justiciable controversy under the facts and the law which warranted the filing of the Second Amended Complaint against this answering

defendant and that plaintiff should therefore be responsible for all this answering defendant's necessary and reasonable defense costs, including attorneys' fees, as more particularly set forth in California Code of Civil Procedure §1038.

AS AND FOR A NINTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that the allegations of the Second Amended Complaint allege nonexistent obligations not contracted for and outside the agreement of the parties or any of them. Said actions work as a complete bar to any recovery herein.

AS AND FOR A TENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant is informed and believes and, based upon such information and belief, alleges that plaintiff failed to exercise ordinary care, caution or prudence to avoid the incidents alleged or to care for their own property, that the resulting damages to plaintiff, if any, were directly and proximately caused and contributed to by the fault, negligence and carelessness of plaintiff, that the acts or omissions of plaintiff constituted the sole proximate cause of its alleged damages, if any, and therefore, this answering defendant is not liable to plaintiff for any damages.

AS AND FOR AN ELEVENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant is informed and believes and, based upon such information and belief, alleges that at all times mentioned herein, plaintiff and each of its successors in interest and predecessors in interest failed to use reasonable care to reduce and minimize as much as reasonably possible, the damages, if any, and that said failure was the direct and proximate cause of any and all damages sustained by plaintiff, if any, and therefore, this answering defendant is not liable to plaintiff for any damages.

AS AND FOR A TWELFTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this

answering defendant is informed and believes and, based upon such information and belief, alleges that if any contracts, obligations or agreements as alleged in the Second Amended Complaint have been entered into, any duty or performance of this answering defendant is excused by reason of failure of consideration, waiver, breach of condition precedent, breach by plaintiff, impossibility of performance, prevention by plaintiff, frustration of purpose and/or acceptance by plaintiff.

AS AND FOR A THIRTEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant is informed and believes and, based upon such information and belief, alleges that recovery of plaintiff is diminished, barred and/or reduced by the active, primary and affirmative negligence, carelessness and recklessness of plaintiff, and that plaintiff is not entitled to indemnity against this answering defendant, whether the same be deemed negligence or strict liability in tort, that the conduct of defendant, if any, was passive, derivative and secondary in nature, while the conduct of plaintiff was active and primary.

AS AND FOR A FOURTEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant is informed and believes and, based upon such information and belief, alleges that plaintiff and other persons and entities retained by plaintiff have made changes, alterations, and/or modifications to the work performed by this answering defendant, which conduct discharges defendant from any liability.

AS AND FOR A FIFTEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant is informed and believes and, based upon such information and belief, alleges that if there are any defects or inadequacies in the work performed by this answering defendant, which defendant denies, plaintiff failed to timely notify this answering defendant of such conditions, and failed to give defendant timely opportunity to cure such conditions, or to mitigate the damage resulting from such

conditions. This conduct by plaintiff bars it from any relief from this answering defendant.

AS AND FOR A SIXTEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this answering defendant alleges that all purported contracts referred to in the Second Amended Complaint by plaintiff were adhesion contracts and unenforceable, void and voidable.

AS AND FOR A SEVENTEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this defendant alleges that all purported contracts were contracts of adhesion and any ambiguities in the terms and condition of said contract(s) must be resolved against plaintiff and in favor of this answering defendant.

AS AND FOR AN EIGHTEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this defendant alleges that all contracts are so ambiguous as to render each and every contract unenforceable by its terms.

AS AND FOR A NINETEENTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this defendant alleges that plaintiff's Second Amended Complaint is barred by the provisions of Civil Code §2782.

AS AND FOR A TWENTIETH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this defendant alleges that any and all express indemnity clauses contained in the contract(s) at issue, by the express language contained therein, did not survive the termination of the contract(s); and that this answering defendant completed the work called for in the contract(s), and that said contract(s) were not intended to impose liability for damage occurring after the contract(s) were completed.

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AS AND FOR A TWENTY-FIRST, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this defendant is informed and believes and, based upon such information and belief, alleges that plaintiff knew or should have known of material information affecting the marketability, safety, habitability, value, condition, and desirability of the property in question and either intentionally and/or negligently failed to disclose said material information to plaintiff and plaintiff's members; that plaintiff's liability arises in whole or in part from said non-disclosure and concealment and because defendant's liability to plaintiff is based on said nondisclosure and concealment, any obligation that did, does, or may exist for defendant to indemnify plaintiff on any basis, including, but not limited to contract, tort, or equity is voided, eliminated, terminated, or unenforceable and precludes plaintiff from recovery of any money from this defendant.

AS AND FOR A TWENTY-SECOND, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, this defendant is informed and believes and, based upon such information and belief, alleges that plaintiffs and/or cross-complainants were reimbursed for a portion of the claimed damages by a third party; this answering defendant is informed and believes and thereon alleges that plaintiffs and/or cross-complainants have subrogated that third party to a portion of the damages claimed herein; this answering defendant is informed and believes and thereon alleges that by virtue of the aforementioned subrogation, plaintiffs and/or cross-complainants have failed to name indispensable parties, and have violated the rule against splitting causes of action, thus barring recovery herein by plaintiff and/or cross-complainant.

AS AND FOR A TWENTY-THIRD, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, defendant alleges that it owes plaintiff no contractual indemnity because the plaintiff and cross-complainant acted collusively in reaching their settlement.

AS AND FOR A TWENTY-FOURTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, defendant alleges that it owes plaintiff no contractual indemnity because plaintiff and cross-complainant entered into their settlement in bad faith.

AS AND FOR A TWENTY-FIFTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, defendant alleges that it owes plaintiff no contractual indemnity because plaintiff has acted as though it had no reasonable belief that it had an interest to protect in this litigation.

AS AND FOR A TWENTY-SIXTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE this answering defendant alleges that said Second Amended Complaint is barred by the Doctrine of Estoppel.

AS AND FOR A TWENTY-SIXTH, SEPARATE AND DISTINCT ANSWER AND DEFENSE to the allegations of the Second Amended Complaint on file herein, defendant alleges that the subcontract between cross-defendants and cross-complainants should be reformed by the court to reflect the true intentions of both parties at the time they entered into the subcontract agreement. More specifically, it was not the intention of either party that defendant herein would be subjected to the legal effects that have come to be known as Type I indemnity provisions.

WHEREFORE, this answering defendant prays that plaintiff take nothing by reason of its Second Amended Complaint; that defendant be awarded its costs of suit herein and for such other and further relief as the court deems just and proper.

DATED: September 8, 1997.

SCHOFIELD & SCHILLER

By: _____
LYNN M. DIRINGER
Attorneys for Defendant
SIERRA LUMBER & FENCE COMPANY

M:\CASES\HLC\EDGEWATE\ANS-DEF.SAC

PROOF OF SERVICE BY MAIL -- CCP 1013(a), 2015.5

I, the undersigned, hereby declare:

I am employed in the County of Contra Costa, over the age of eighteen years and not a party to the within cause. My business address is One Walnut Creek Center, 100 Pringle Avenue, Suite 510, Walnut Creek, CA 94596.

I am readily familiar with our business's practice for collection and processing of documents for mailing with the U.S. Postal Service, and that the below-named document will be deposited with the U.S. Postal Service with fully prepaid postage thereon on the date set forth below at Walnut Creek, California.

On the date set forth below, I served the within:

DEFENDANT SIERRA LUMBER & FENCE COMPANY'S ANSWER TO SECOND AMENDED COMPLAINT OF EDGEWATER ISLE HOMEOWNERS ASSOCIATION

by placing a true copy in an envelope, sealing and placing it for collection and mailing, following ordinary practices addressed as follows:

SEE ATTACHED SERVICE LIST

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

Executed on September 17, 1997, at Walnut Creek, California.

Regina Garabedian

REGINA GARABEDIAN

Case Name: **Edgewater Isle Homes, et al. v. The Anden Group, et al.**
San Mateo County Superior Court Case No. 388872

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Marisa D'Amico, Esq. BISHOP, BARRY, HOWE, et al. 275 Battery Street, 12th Floor San Francisco, CA 94111	**Def./X-Def., The Anden Group** **Esden Partners, MDG Assoc., Ltd.** **ESR Corp., TMD Corp., and Miden Corp.** Tel: (415) 421-8550 Fax: (415) 362-4730
John J. Carniato, Esq. LAW OFFICES OF JOHN J. CARNIATO 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549	**Defs. Gloria Develop. Co.,** **O'Brien & Hicks and 1988 & Beyond** Tel: (510) 283-1552 Fax: (510) 283-9830
Donald B. Fornasier, Esq. ARCHER, McCOMAS, BRESLIN, et al. P. O. Box 8035 Walnut Creek, CA 94596	**C. Aparicio Cement** Tel: (510) 930-6600 Fax: (510) 930-6620
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Kevin J. Tully, Esq. GREEN, CHAUVEL, DESCALSO & TULLY 901 Mariner's Island Blvd., Suite 400 San Mateo, CA 94404	**Sacramento A-1 Door and** **North Empire Construction** Tel: (415) 573-9500 Fax: (415) 573-9689
Nancy A. McPherson, Esq. HOLMES, DREVLOW, et al. 180 Montgomery Street, Suite 2100 San Francisco, CA 94104-4205	**Sacramento A-1 Door** Tel: (415) 362-1422 Fax: (415) 362-7054
Anthony J. DeMaria, Esq. FELICE & DeMARIA 1130 Burnett Ave., Bldg. D, Suite H Concord, CA 94520	**Gonsalves & Santucci, Inc.** **dba Conco Cement Company** Tel: (510) 676-5094 Fax: (510) 676-0548
Ara Shirinian, Esq. CONROY, SHRINIAN & MAHONEY 444 Market Street, Suite 2675 San Francisco, CA 94111	**T&D Tile** Tel: (415) 983-4740 Fax: (415) 296-1043

Service List - Continued

Albert P. Blake, Esq. OWEN & MELBYE 700 Jefferson Avenue Redwood City, CA 94063	**Tara Coatings, Inc.** Tel: (415) 364-6500 Fax: (415) 365-7036
Donald L. Sullivan, Esq. CLAPP, MARONEY, BELLAGAMBA, DAVIS & VUCINICH 4400 Bohannon Drive, Suite 100 Menlo Park, CA 94025	**Mission Drywall of San Jose and Silva Fence Company** Tel: (415) 327-1300 Fax: (415) 327-3707
Josh M. Shinnick, Esq. HOGE, FENTON, JONES & APPEL, INC. 60 South Market Street San Jose, CA 95113-2396	**O'Brien & Hicks** Tel: (408) 287-9501 Fax: (408) 287-2583
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William L. Nagle, Esq. NAGLE, KRUG & WINTERS 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116	**Special Master** Tel: (415) 579-1422 Fax: (415) 579-1852
David N. Poll, Esq. COLLINS & SCHLOTHAUER 60 South Market Street, Suite 1100 San Jose, CA 95113-2369	**Silva Fence Company** Tel: (408) 298-5161 Fax: (408) 297-5766
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Robert P. Jolly, Esq. JOLLY, HERLIHY & HEPLER 275 Battery Street, Suite 600 San Francisco, CA 94111	**M&H Electric** (415) 658-3100 Fax: (415) 658-3094
Jeffrey L. Borsuk, Esq. Lisa G. Schlittner, Esq. PANDELL & BORSUK 2033 N. Main Street, Suite 450 Walnut Creek, CA 94596-3722	**Carlos Rodriguez Painting** (510) 746-8800 Fax: (510) 746-8898

12:00 p.m. Soils borings - 2 locations to be determined.

29950.1\5010\RTW

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Attorneys for Defendant
PENINSULA FLOORS, INC.
(erroneously sued as Peninsula Floors)

FILED
SAN MATEO COUNTY
SEP 18 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiffs, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 **DEFENDANT PENINSULA FLOORS, INC.'S ANSWER TO SECOND AMENDED COMPLAINT OF EDGEWATER ISLE HOMEOWNERS ASSOCIATION**

COMES NOW Defendant PENINSULA FLOORS, INC. for itself and for no other defendant, and answers the Second Amended Complaint of EDGEWATER ISLE HOMEOWNERS ASSOCIATION, denying each and every, all and singular, conjunctively and disjunctively, the allegations contained in said Complaint, and each and every part thereof, and each and every cause of action thereof, and further specifically denies that plaintiff has been injured and/or damaged in the sum alleged, or in any other sum, or at all, by reason of any carelessness, negligence, act or omission of this answering defendant.

ORIGINAL

388872
09-19-1997/09:06 AM
$182.00/03-56351

AFFIRMATIVE DEFENSES

1. AS A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint does not state facts sufficient to constitute a cause of action against this answering defendant.

2. AS A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint is barred by the statutes of limitations set forth in California Code of Civil Procedure, commencing with section 335 and continuing to section 349.4, as well as other applicable statutes of limitations.

3. AS A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff has unreasonably delayed in bringing this action to the prejudice of this answering defendant and is therefore barred from bringing this action by the doctrine of laches and applicable California Code of Civil Procedure Sections 583.420 and 583.210.

4. AS A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff is at fault in and about the matters referred to in the Complaint, and such fault on the part of plaintiff proximately caused and contributed to the damages complained of, if any there are. This answering defendant further alleges that any fault not attributable to said plaintiff was a result of fault on the part of persons and/or entities other than this answering defendant. Such fault

bars and/or proportionately reduces any recovery by plaintiff against this answering defendant.

5. AS A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, should plaintiff recover damages from this answering defendant, this answering defendant is entitled to indemnification, either in whole or in part, from all persons or entities whose negligence and/or fault proximately contributed to plaintiff's damages, if any and there were.

6. AS A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff directed, ordered, approved, and/or ratified defendant's conduct, and plaintiff is therefore estopped from asserting any claim based thereon.

7. AS A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff is barred by virtue of plaintiff's conduct in causing the damages alleged by plaintiff under the doctrine of unclean hands.

8. AS AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, plaintiff and others unrelated to this answering defendant modified, altered, abused, and/or misused the materials and/or equipment provided by this defendant, and such conduct caused and/or contributed to the damages which are alleged in this lawsuit.

9. AS A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this

answering defendant alleges that by the terms of its contract, this answering defendant is not responsible for the method or means of construction used by the contractor, nor is this answering defendant responsible for the contractor's failure to carry out the work in accordance with the contract documents.

10. AS A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint is barred by the following provisions of the California Commercial Code: sections 1201(25)(c), 2601, 2602(1), 2513(1) and (3), 2510(1), 2605(1)(a) and (b), 2606, 2607, 2715(2)(a) and (b), and 2719.

11. AS AN ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint is barred by the provisions of California Civil Code section 2782.5.

12. AS A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint fails to state a cause of action against this answering defendant since plaintiff failed to give timely and proper notice of any breach of warranty.

13. AS A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff acted with full knowledge of all of the facts and circumstances surrounding its alleged injuries and damages, and thus assumed the risks of its injuries and damages, if any there were.

14. AS A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO

THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint fails to state facts, or to allege claims, which would impose joint and several liability for any of the damages claimed by any party against this answering defendant. Any liability against this answering defendant, which liability is expressly denied, would therefore be limited to those injuries, losses, or damages, if any there were, for which this answering defendant's actionable conduct, if any, was a primary contributing factor.

15. AS A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint is absolutely barred by the provisions of California Civil Code sections 1474, 1475, 1476, 1477, and each of them.

16. AS A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint fails to state facts sufficient to constitute a cause of action for indemnity or contribution based on strict liability.

17. AS A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint fails to state facts sufficient to constitute a cause of action for breach of implied warranty against this answering defendant.

18. AS AN EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the injuries and damage complained of by plaintiff, if any, were either wholly, or in

part, directly and proximately caused by the negligence of persons or entities other than this answering defendant, and said negligence is imputed to plaintiff by reason of the relationship between plaintiff and said persons or entities, or comparatively reduces the proportion of liability of this answering defendant.

19. AS A NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff and their representatives and agents were themselves careless and negligent in and about the matters in said Complaint and such carelessness and negligence on the part of plaintiff contributed to the injuries and damages complained of, if any there were.

20. AS A TWENTIETH, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff has waived their right to claim indemnity as alleged in the Complaint on file herein and for the payment of damages, if any there were.

21. AS A TWENTY-FIRST, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that the Complaint fails to state facts sufficient to support a claim or award of attorneys' fees pursuant to any express or implied claim or cause of action.

22. AS A TWENTY-SECOND, SEPARATE AND AFFIRMATIVE DEFENSE TO THE SECOND AMENDED COMPLAINT, and each cause of action thereof, this answering defendant alleges that plaintiff has failed to mitigate damages, if any there were, and that said

failure has proximately caused or contributed to the matters complained of and the damages alleged in said Complaint, if any there were.

WHEREFORE, this answering defendant prays that plaintiff take nothing by said Complaint and this answering defendant have judgment for costs of suit incurred herein, including attorneys' fees, and for such other further relief as the Court may deem just and proper.

Dated: September 17, 1997

PHILLIPS & SPALLAS LLP

By: _____
Robert K. Phillips

Attorneys for Defendant
PENINSULA FLOORS, INC.

PROOF OF SERVICE BY MAIL

Edgewater Isle Homeowners Association v. Peninsula Floors, Inc.
San Mateo County Superior Court Action No. 388872

I, the undersigned, hereby declare that I am over the age of eighteen years and not a party to the within action. My business address is 225 Bush Street, 16th Floor, San Francisco, California 94104.

On the date indicated below, I served by mail a true copy of the following document(s): DEFENDANT PENINSULA FLOORS, INC.'S ANSWER TO SECOND AMENDED COMPLAINT OF EDGEWATER ISLE HOMEOWNERS ASSOCIATION.

I am readily familiar with the practice of this business for collection and processing of documents for mailing with the United States Postal Service. Documents so collected and processed are placed for collection and deposit with the United States Postal Service that same day in the ordinary course of business. The above-referenced document(s) were placed in (a) sealed envelope(s) with postage thereon fully prepaid, addressed to each of the below listed parties and such envelope(s) was (were) placed for collection and deposit with the United States Postal Service on the date listed below at 111 Pine Street, 18th Floor, San Francisco, California 94111.

Thomas E. Miller, Esq.
Law Offices of Thomas E. Miller
4695 MacArthur Court, Suite 1150
Newport Beach, CA 92660

[See additional service list attached]

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

Executed on September 17, 1997 at San Francisco, California.

Melinda Bates

Edgewater Isle Homeowners Association v. The Anden Group, et al.

San Mateo Superior Court Case No. 388872

SERVICE LIST

William L. Nagle 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116 (415) 579-0500\(415) 579-0623 (FAX) **SPECIAL MASTER**	Michael Meehen, Esq. **DPIC Companies, Inc.** 100 California Street, Suite 1190 San Francisco, CA 94105 (415) 433-1676\(415) 788-6507 (FAX) Cross-Defendants **MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.**
Sandra L. Fulmer Marisa D'Amico **Bishop, Barry, Howe, Haney & Ryder** A Professional Corporation Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111-3333 (415) 421-8550\(415) 362-4730 (FAX) Defendants and Cross-Complainants **THE ANDEN GROUP**	Donald B. Fornasier **Archer, McComas, Breslin, McMahon & Chritton** Post Office Box 8035 Walnut Creek, CA 94596 (510) 930-6600\(510) 930-6620 (FAX) Cross-Defendant **APRICIO CEMENT**
Thorsten J. Pray **Law Offices of John J. Carniato** 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552\(510) 283-9830 (FAX) Defendants and Cross-Complainants **GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.**	Anthony J. DeMaria **Felice & DeMaria** 1130 Burnett Ave., Bld. D, Suite H Concord, CA 94520 (510) 676-5094\(510) 676-0548 (FAX) Cross-Defendant **GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY**
John Shinnick **Hoge, Fenton, Jones & Appel** 60 South Market Street, 14th Floor San Jose, CA 95113 (408) 287-9501\(408) 287-2583 (FAX) Defendant **O'BRIEN & HICKS, INC.**	S. Mitchell Kaplan **Gordon & Rees** 275 Battery Street, 20th Floor San Francisco, CA 94111 (415) 986-5900\(415) 986-8054 (FAX) Cross-Defendant **FISK, FIRENZE & McLEAN and DANIEL SMITH PLASTERING, INC.**
Albert Blake **Roger, Scott & Helmer** 900 Veterans Blvd., Suite 430 Redwood City, CA 94063 (415) 365-7700\(415) 365-0677 (FAX) Cross-Defendant **TARA COATINGS**	Joe Thompson Attorney at Law 981 Fremont Street Santa Clara, CA 95050 (408) 984-8555\(408) 292-1061 (FAX) Cross-Defendant **SIERRA LUMBER**
Norman La Force **Law Offices of F. Ross Adkins** 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200\(415) 981-2097 (FAX) Co-Counsel Cross-Defendant **TARA COATINGS**	Howard L. Churchill **Schofield & Schiller** 100 Pringle Avenue, #510 Walnut Creek, CA 94596 (510) 934-3600\(510) 934-2257 (FAX) Cross-Defendant **SIERRA LUMBER**

Kevin J. Tully **Greene, Chauvel & Descalso** 902 Mariners Island Blvd., Suite 400 San Mateo, CA 94404-1594 (415) 573-9500\(415) 573-9689 (FAX) Cross-Defendants **SACRAMENTO A-1 DOOR and NORTH EMPIRE CONSTRUCTION**	Donald L. Sullivan **Clapp, Moroney, Bellagamba, Davis & Vucinich** 4400 Bohannon Drive, Suite 100 Menlo Park, CA 94025 (415) 327-1300\(415) 327-3707 (FAX) Cross-Defendant **MISSION DRYWALL OF SAN JOSE and SILVA FENCE COMPANY**
Maria Caruana, Esq. **Fortune & Drevlow** 180 Montgomery Street, Suite 2100 San Francisco, CA 94104 (415) 362-1422\(415) 362-7054 (FAX) Co-Counsel for Cross-Defendant **SACRAMENTO A-1 DOOR**	David N. Poll **Collins & Schlothauer** 60 South Market Street, Suite 1100 San Jose, CA 95113-2369 (408) 298-5161\(408) 297-5766 (FAX) Co-Counsel for Cross-Defendant **SILVA FENCE COMPANY**
Helen B. Baumann **Law Offices of Eugene L. Bass** 495 Seaport Court, Suite 103 Redwood City, CA 94063 (415) 361-1199\(415) 369-4984 (FAX) Cross-Defendant **SAN CARLOS SHEET METAL WORKS, INC.**	Joseph H. Huber **Gassett, Perry & Frank** 210 North Fourth Street, Suite 400 San Jose, CA 95112 (408) 295-7034\(408) 295-5799 (FAX) Cross-Defendant **CROWLEY COMPANY**
Johnathan Margolis **Low, Ball & Lynch** 10 Twin Dolphin Drive, Suite B-500 Redwood City, CA 94065 (415) 591-8822\(415) 591-8884 (FAX) Cross-Defendant **ALCAL ROOFING & INSULATION**	Scott C. Finch **Larson & Burnham** Post Office Box 119 Oakland, CA 94604 (510) 444-6800\(510) 835-6666 (FAX) Cross-Defendant **HANSON'S MASONRY, INC.**
Alan H. Finkel **Proskauer, Rose, Goetz & Mendelsohn** 2121 Avenue of the Stars, Suite 2700 Los Angeles, CA 90067-5010 (310) 284-5650\(310) 557-2193 (FAX) (Personal Counsel) **THE ANDEN GROUP**	J. Michael Higginbotham, Esq. **Long & Levit** 101 California Street, Suite 2300 San Francisco, CA 94111 415/397-2222\415/397-6392 (FAX) Attorneys for Cross-Defendant **C. APARICIO CEMENT**
Philip Y. Kazan, Esq. **Russell, Kazan, Brenner & Mallett** 343 Sansome Street, Suite 525 San Francisco, CA 94104 415/956-5841\415/956-0708 (FAX) Attorneys for Cross-Defendant **C. APARICIO CEMENT**	William H. Staples, Esq. **Capps, Staples, Ward, Stephenson & Dodson** 1777 Botelho Drive, Suite 100 Walnut Creek, CA 94596 510/939-4411\510/939-5241 (FAX) Attorneys for Cross-Defendant **SAFECO INSURANCE COMPANY OF AMERICA**
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5074
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1997 SEP 15 P 3:38

FILED
CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

Sept 11-13-97

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

AMENDED

PRE-TRIAL ORDER NO. 32

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that the Special Master shall hold a Status/Settlement Conference with all counsel and coverage counsel on September 12, 1997 at 9:30 a.m. at the San Mateo County Superior Courthouse, in a courtroom to be announced, 401 Marshall Street, Redwood City, California. Principals with authority, including insurance claims representatives, shall attend via telephone standby. At 10:30 a.m., the Special Master shall meet with Anden counsel and carriers only.

APPROVED AND RECOMMENDED:

DATED: August 30, 1997

William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: 9-10-97

Judge of the Superior Court

Sat. ct. 11-13-97

FILED
SAN MATEO COUNTY
SEP - 4 1997
Clerk of the Superior Court
By [signature] DEPUTY CLERK

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Attorneys for Defendant
and Cross-defendant
DANIEL SMITH PLASTERING

182

SUPERIOR COURT OF CALIFORNIA - COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al., Plaintiffs, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTION.	CASE NO. 388 872 **NOTICE OF APPEARANCE**

DANIEL SMITH PLASTERING hereby appears as a defendant in this case,by and through its counsel of record,Gordon & Rees,LLP.

DATED: September 4, 1997

GORDON & REES, LLP

By [signature]
Michael D. Bruno
Attorneys for Defendant
and Cross-defendant
DANIEL SMITH PLASTERING

L:\COVERAGE\CLIENT\WAU\57-139\PLEADING\APPEAR.DSP

GORDON & REES, LLP
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CASE#:388872
09-04-1997/02:48 PM
$182.00/03-55802

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Gordon & Rees, LLP, 275 Battery Street, San Francisco, California 94111. On September 4, 1997, I served the within documents:

NOTICE OF APPEARANCE

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

[See attached list...]

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 4, 1997, at San Francisco, California.

Lee Grygo

Lee Grygo

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FILED
SAN MATEO COUNTY
SEP - 3 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., a non-profit mutual benefit corporation, on behalf of itself and as representative of all EDGEWATER ISLE homeowners,

Plaintiff,

vs.

THE ANDEN GROUP, a California general partnership, THE ANDEN CORPORATION, a California corporation, KLINGBEIL GROUP, INC., an Ohio corporation, ESDEN PARTNERS, a California Limited Partnership, ESR CORPORATION, a California corporation, TMD CORPORATION, a California corporation, GLORIA DEVELOPMENT CO., INC., a California corporation, O'BRIEN & HICKS, INC., a California corporation, O'BRIEN & HICKS (S) 1988 & BEYOND, LTD., a business organization unknown, MIDEN CORPORATION, a California corporation, and DOES 1 to 200, inclusive,

Defendants.

AND RELATED CROSS-ACTIONS.

NO. 388872

NOTICE OF APPEARANCE

//

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CASE#:388872
09-03-1997/01:11 PM
$182.00/03-55764

PLEASE TAKE NOTICE, pursuant to Special Master's Pretrial Order No. 2 filed herein, CARLOS RODRIGUEZ PAINTING, sued herein as Doe 33, hereby appears in this litigation by and through its attorneys of record, Pandell & Borsuk LLP, 2033 N. Main Street, Suite 450, Walnut Creek, California 94596.

By filing and serving this Notice of Appearance, CARLOS RODRIGUEZ PAINTING is hereby deemed to have answered the complaint of EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., and all future complaints and/or cross-complaints properly served on CARLOS RODRIGUEZ PAINTING in this action.

DATED: September 3, 1997

PANDELL & BORSUK LLP

By _____
Lisa G. Schlittner
Attorneys for defendant CARLOS RODRIGUEZ PAINTING

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PANDELL & BORSUK LLP, 2033 N. Main Street, Suite 450, Walnut Creek, California 94596-3722. On September 3, 1997, I served the within documents:

NOTICE OF APPEARANCE

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Walnut Creek, California addressed as set forth below.

☐ by causing personal delivery by _____ of the document(s) listed above to the person(s) at the address(es) set forth below.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

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☒ *(State)* I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ *(Federal)* I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 3, 1997, at Walnut Creek, California.

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Marie Dickson-Brown

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FILED
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Clerk of the Superior Court
By DEPUTY CLERK

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SUPERIOR COURT OF CALIFORNIA - COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al., Plaintiffs, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTION.	CASE NO. 388 872 **OPPOSITION TO PLAINTIFF'S MOTION TO AUGMENT EXPERT WITNESS DESIGNATION** Date: September 3, 1997 Time: 10:00 a.m. Location: Office of Special Master William L.Nagle Trial: December 8, 1997

FACTS AND INTRODUCTION

Distilled to its essence, the plaintiff asserts that, because its new attorney believes its prior attorney did not do his job in a satisfactory manner, the subcontractor cross-defendants must assume the risk that their experts will be able to participate in a rushed, aggressive and inflexible discovery marathon immediately prior to trial. Instead of preparing for trial, the defendants will be pursuing the plaintiff for an

accurate statement of claims and the cross-defendants will be pursuing the defendants for the same.

While the plaintiff EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC. is entitled to switch attorneys at any time in the case, its decision to switch attorneys immediately prior to trial should not undo the three years of work which has gone into this case since it was filed. While plaintiff's motion purports to be an attempt to request "cleanup" destructive investigation, it is a request to begin a new investigation into areas of the project plaintiff should have explored during the last three years. It is simply too late, three months before trial, to force all of the subcontractor cross-defendants to redo forensic investigations which have been completed, as they should have been, long ago.

That plaintiff's new counsel is of the opinion that plaintiff's prior counsel had not done an appropriate workup of the case, is not grounds for compressing an expert investigation which should take five to eight months, into the very busy and hectic two and one-half months prior to trial. Such a tremendously accelerated schedule will increase the costs the subcontractors have already incurred by forcing expert consultants to rework their opinions and to review new reports in areas previously undisclosed by the plaintiff. Indeed, plaintiff's motion pre-supposes that the subcontractor

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defendants' consultants all have wide open schedules which will permit their participation in a destructive testing scheme which, by the nature of its timing, must be rigid and inflexible.

LEGAL ANALYSIS

Code of Civil Procedure section 2034(k) does not allow a party to augment its expert witness list when doing so would prejudice the other parties. No reasonable argument can be made that the plaintiff's abandoning of the previous additional destructive testing schedule has not prejudiced the cross-defendant subcontractors. Plaintiff's decision to switch attorneys mid stream has unilaterally derailed the discovery process. This action was taken in spite of, and in contravention of, the pre-trial orders.

Plaintiff apparently does not understand that its new counsel's diligence in cleaning up the mess that it made is irrelevant to whether or not unfair prejudice exists. Indeed, plaintiff's proposed scheduled testing does not get going until September 22, 1997 and is not complete until two months prior to trial. Plaintiff makes no showing of when it will have is experts ready to testify. Presumably, there is some gap between the end of the destructive testing and the experts preparing themselves and their reports in anticipation of depositions.

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Plaintiff also conveniently neglects to mention that if it discovers new defects not previously asserted, at least some parties which the plaintiff will contend are responsible for the defects, will have to retain new experts. This process takes time, as well as money. Nevertheless, in the same breath, the plaintiff implicitly claims that it will not prejudice any subcontractor cross-defendant to rush to find an expert consultant, who is available on a moment's notice to perform an investigation and be prepared to give a deposition immediately thereafter. The logistics plaintiff suggests are horrific.

On the other hand, the experts for the defendants and the subcontractor cross-defendants are absolutely, and understandably, unwilling to produce their experts for deposition prior to the plaintiff producing its experts. The cross-defendants are responding to the plaintiff's and the defendants' claims. They cannot respond to claims of which they have not been made aware.

CONCLUSION

Plaintiff's experts should already be prepared for deposition and, indeed, those depositions should be going forward now. Plaintiff's disingenuous characterization of new additional destructive testing, including ABS pipe testing, as "one week of cleanup" underscores this scheme's intention to vastly expand the claims at the project.

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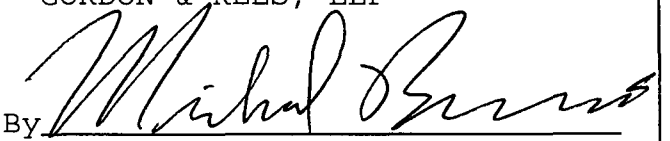
This case has been on file for nearly three years, and has proceeded diligently through all sorts of insurance coverage difficulties and is now ready for trial. Now is not the time for plaintiff to begin a new investigation. It is the time for plaintiff to finish its investigation and produce its experts. To grant plaintiff's motion would be to undo all of the work the subcontractor cross-defendants have completed. Unfortunately for those cross-defendants, they cannot "unspend" the thousands of dollars spent in retaining expert consultants who have all but completed their work, save giving depositions. Granting this motion will force these cross-defendants to incur new costs for which only the plaintiff is responsible.

While the plaintiff is free to change attorneys at any time in the litigation, its choice to change attorneys immediately before trial, based on its perception that the attorney that it originally selected and hired was not doing his job correctly, does not constitute an emergency on the part of the cross-defendants. This is especially true when the emergency involves unfair and undue prejudice to the cross-defendants.

DATED: August 28, 1997

GORDON & REES, LLP

By 
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I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Gordon & Rees, LLP, 275 Battery Street, San Francisco, California 94111. On August 28, 1997, I served the within documents:

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[X] by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 28, 1997, at San Francisco, California.

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[See attached list...]

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Attorneys for Defendant,
T&D TILE COMPANY, INC.

FILED
SAN MATEO COUNTY
AUG 27 1997
Clerk of the Superior Court
By
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., a non-profit mutual benefit corporation, on behalf of itself and as representative of all EDGEWATER ISLE homeowners,

Plaintiff,

v.

THE ANDEN GROUP, a California general partnership, THE ANDEN CORPORATION, a California corporation, KLINGBEIL GROUP, INC. an Ohio corporation, ESDEN PARTNERS a California limited partnership, ESR CORPORATION, a California corporation, GLORIA DEVELOPMENT CO. INC., a California corporation, O'BRIEN & HICKS, INC., a California corporation, O'BRIEN & HICKS, (S) 1988 & BEYOND, LTD., a business organization unknown, MIDEN CORPORATION, a California corporation, and DOES 1 to 200, inclusive,

Defendants.

No. 388872

BY FAX

ANSWER TO SECOND AMENDED COMPLAINT

FILED BY FAX & FILE

COMES NOW defendant T&D TILE in answer to the Second Amended Complaint of plaintiffs, EDGEWATER ISLE HOMEOWNERS ASSOCIATION, herewith denies each and every, all and singular, the allegations of said complaint and in this connection defendant denies that plaintiffs have been injured or damaged in any of the sums mentioned in said complaint or in any sum, or at all as the result of any act or omission of this answering defendant.

AS AND FOR A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and each cause of action thereof, fails to state facts sufficient to constitute a cause of action against this answering defendant.

AS AND FOR A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and each cause of action thereof, is barred by the statutes of limitations set forth in the California Code of Civil Procedure, commencing with section 335 and continuing through section 349.4, more particularly, but not limited to, the following: section 337(1), Section 337.1, Section 337.125, Section 338, Section 339, Section 340, and Section 343; and by Sections 2607(3)(A), AND 2725(1) and (2) of the Uniform Commercial Code of the State of California.

AS AND FOR A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff and/or cross-complainant has unreasonably delayed in bringing this action to the prejudice of this answering defendant and is therefore barred from bringing this action by the doctrine of laches.

AS AND FOR A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff and/or cross-complainant is at fault in and about the matters referred to in the complaint and/or cross-complaint, and such fault on the part of plaintiff and/or cross-complainant proximately caused and contributed to the damages complained

of , if any there are. This answering defendant further alleges that any fault not attributable to said plaintiff and/or cross-complainant was a result of fault on the part of persons and/or entities other than this answering defendant. Such fault bars and/or proportionately reduces and recovery by plaintiff and/or cross-complainant against this answering defendant.

AS AND FOR A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT should plaintiff and/or cross-complainant recover damages from this answering defendant, this answering defendant is entitled to indemnification, either in whole or in part, from all persons or entities whose negligence and/or fault proximately contributed to plaintiff and/or cross-complainant's damages, if any there were.

AS AND FOR A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff and/or cross-complainant directed, ordered, approved, and/or ratified defendant's conduct, and plaintiff and/or cross-complainant is therefore estopped from asserting any claim based thereon.

AS AND FOR A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff and/or cross-complainant has failed and neglected to use reasonable care to minimize and mitigate the losses, injuries, and damages complained of, if any there were.

AS AND FOR A EIGHT, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and each cause of action thereof, is barred by the virtue of plaintiff and/or cross-complainant's conduct in causing the damages alleged by plaintiff and/or cross-complainant under the doctrine of unclean hands.

AS AND FOR A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT prior to commencement of this action, this answering defendant duly performed, satisfied, and discharge all duties and obligation it may have owned to

plaintiff and/or cross-complainant arising out of any and all agreements, representations, or contracts made by it or on behalf of this answering defendant, and this section is therefore barred by the provisions of California Civil Code section 1473.

AS AND FOR A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff and/or cross-complainant and others unrelated to this answering defendant modified, altered, abused, and/or misused the materials and/or equipment provided by this defendant, and such conduct caused and/or contributed to the damages which are alleged in this lawsuit.

AS AND FOR A ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT by the terms of this contract, this answering defendant is not responsible for the method or means of construction used by the contractor, nor is this answering defendant responsible for the contractor's failure to carry out the work in accordance with the contract documents.

AS AND FOR A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and which cause of action thereof, is barred by the following provision of the Uniform Commercial Code: sections 1201(25)(c), 2601, 2601(1), 2513(1) and (3), 2510(1), 2605(1)(a) and (b), 2606(1)(a) and (b), 2607, 2715(2)(a), and 2719(3).

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AS AND FOR A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and each alleged cause of action thereof, is barred by the provisions of California Civil Code section 2782.5.

AS AND FOR A FOURTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and each cause

of action thereof, fails to state a cause of action against this answering defendant as there is no privity between plaintiff and/or cross-complainant and this answering defendant.

AS AND FOR A FIFTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT this complaint and/or cross-complaint, and each cause of action thereof, fails to state a cause of action against this answering defendant since plaintiff and/or cross-complainant failed to give timely and proper notice of any breach of warranty.

AS AND FOR A SIXTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff and/or cross-complainant acted with full knowledge of all of the facts and circumstance surrounding its alleged in juries and damages, and thus assumed the risks of its injuries and damages, if any there are.

AS AND FOR A SEVENTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff's complaint and/or cross-complainant's cross-complaint and each alleged cause of action appearing therein, fails to state facts, or to alleged claims which would impose joint and several liability for any of the damages claimed by any party against this answering defendant. Any liability of this answering defendant and.or cross-defendant, which liability is expressly denied, would therefore be limited to those injuries, losses or damages, if any there were for which this answering defendant's actionable conduct, if any, was a primary contributing factor.

AS AND FOR A EIGHTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff's complaint and/or cross-complainant's cross-complaint, and each alleged cause of action therein, is absolutely barred by the provisions of Civil Code sections 1474, 1475, 1476, 1477, and each of them.

AS AND FOR A NINETEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff's complaint and/or cross-complainant's

cross-complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for indemnity or contribution based on strict liability.

AS AND FOR A TWENTIETH, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff's complaint and/or cross-complainant's cross-complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for indemnity or contributing based on strict liability.

AS AND FOR A TWENTYFIRST, SEPARATE AND AFFIRMATIVE DEFENSE, CROSS-DEFENDANT ALLEGES THAT plaintiff's complaint and/or cross-complainant's cross-complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for beach of implied warranty against this answering defendant .

WHEREFORE, defendant prays for judgment recovery as follows:

1. That plaintiffs take nothing by their complaint;

2. That judgment be rendered for this defendant;

3. For attorneys fees and costs of suit herein; and

4. For such other and further relief as the court may deem proper.

Dated: August 19, 1997

STEPHAN & CONROY

Paul E. Stephan
Attorney for Cross-Defendant,
T&D TILE COMPANY, INC.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 444 Market Street, Suite 2675, San Francisco, California 94111.

On **August 27, 1997**, I served the foregoing document described as:

DEFENDANT T&D TILE'S ANSWER TO COMPLAINT

on the interested parties in this action by placing the true copies thereof enclosed in sealed envelope(s) addressed as follows:

Thomas E. Miller, Esq.
Attorney for: Edgewater Isle HOA Association
Law Offices of Thomas E. Miller
4675 MacArthur Court
Suite 1150
Newport Beach, California 92660
Phone: (714) 252-9150
Fax: (714) 442-0646

SEE ATTACHED FOR ALL ADDITIONAL PARTIES

X **(BY MAIL)** I placed each such sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at San Francisco, California, following ordinary business practices. I am readily familiar with this firms practice for processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for processing.

Executed on **August 27, 1997** at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Ethna Murphy
Declarant

Edgewater Isle . neowners Association v. The And Group, et al.

San Mateo Superior Court Case No. 388872

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William L. Nagle 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116 (415) 579-0500 (415) 579-0623 (FAX) SPECIAL MASTER	Michael Meehen, Esq. DPIC Companies, Inc. 100 California Street, Suite 1190 San Francisco, CA 94105 (415) 433-1676 (415) 788-6507 (FAX) Cross-Defendants MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.
Sandra L. Fulmer Marisa D'Amico Bishop, Barry, Howe, Haney & Ryder A Professional Corporation Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111-3333 (415) 421-8550 (415) 362-4730 (FAX) Defendants and Cross-Complainants THE ANDEN GROUP	Donald B. Fornasier Archer, McComas, Breslin, McMahon & Chritton Post Office Box 8035 Walnut Creek, CA 94596 (510) 930-6600 (510) 930-6620 (FAX) Cross-Defendant APRICIO CEMENT
Thorsten J. Pray Law Offices of John J. Carniato 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (FAX) Defendants and Cross-Complainants GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.	Anthony J. DeMaria Felice & DeMaria 1130 Burnett Ave., Bld. D, Suite H Concord, CA 94520 (510) 676-5094 (510) 676-0548 (FAX) Cross-Defendant GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY
John Shinnick Hoge, Fenton, Jones & Appel 60 South Market Street, 14th Floor San Jose, CA 95113 (408) 287-9501 (408) 287-2583 (FAX) Defendant O'BRIEN & HICKS, INC.	S. Mitchell Kaplan Gordon & Rees 275 Battery Street, 20th Floor San Francisco, CA 94111 (415) 986-5900 (415) 986-8054 (FAX) Cross-Defendant FISK, FIRENZE & McLEAN and DANIEL SMITH PLASTERING, INC.
Albert Blake Roger, Scott & Helmer 900 Veterans Blvd., Suite 430 Redwood City, CA 94063 (415) 365-7700 (415) 365-0677 (FAX) Cross-Defendant TARA COATINGS	Joe Thompson Attorney at Law 981 Fremont Street Santa Clara, CA 95050 (408) 984-8555 (408) 292-1061 (FAX) Cross-Defendant SIERRA LUMBER

29632.1\725\TEM

Norman La Force **Law Offices of F. Ross Adkins** 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200 (415) 981-2097 (FAX) Co-Counsel Cross-Defendant **TARA COATINGS**	Howard L. Churchill **Schofield & Schiller** 100 Pringle Avenue, #510 Walnut Creek, CA 94596 (510) 934-3600 (510) 934-2257 (FAX) Cross-Defendant **SIERRA LUMBER**
Kevin J. Tully **Greene, Chauvel & Descalso** 902 Mariners Island Blvd., Suite 400 San Mateo, CA 94404-1594 (415) 573-9500 (415) 573-9689 (FAX) Cross-Defendants **SACRAMENTO A-1 DOOR and NORTH EMPIRE CONSTRUCTION**	Donald L. Sullivan **Clapp, Moroney, Bellagamba, Davis & Yucinich** 4400 Bohannon Drive, Suite 100 Menlo Park, CA 94025 (415) 327-1300 (415) 327-3707 (FAX) Cross-Defendant **MISSION DRYWALL OF SAN JOSE and SILVA FENCE COMPANY**
Nancy A. McPherson **Holmes, Drevlow, Carmody, Schmidt & Nakano** 180 Montgomery Street, Suite 2100 San Francisco, CA 94104 (415) 362-1422 (415) 362-7054 (FAX) Co-Counsel for Cross-Defendant **SACRAMENTO A-1 DOOR**	David N. Poll **Collins & Schlothauer** 60 South Market Street, Suite 1100 San Jose, CA 95113-2369 (408) 298-5161 (408) 297-5766 (FAX) Co-Counsel for Cross-Defendant **SILVA FENCE COMPANY**
Helen B. Baumann **Law Offices of Eugene L. Bass** 495 Seaport Court, Suite 103 Redwood City, CA 94063 (415) 361-1199 (415) 369-4984 (FAX) Cross-Defendant **SAN CARLOS SHEET METAL WORKS, INC.**	Joseph H. Huber **Gassett, Perry & Frank** 210 North Fourth Street, Suite 400 San Jose, CA 95112 (408) 295-7034 (408) 295-5799 (FAX) Cross-Defendant **CROWLEY COMPANY**
Johnathan Margolis **Law, Ball & Lynch** 10 Twin Dolphin Drive, Suite B-500 Redwood City, CA 94065 (415) 591-8822 (415) 591-8884 (FAX) Cross-Defendant **ALCAL ROOFING & INSULATION**	Scott C. Finch **Larson & Burnham** Post Office Box 119 Oakland, CA 94604 (510) 444-6800 (510) 835-6666 (FAX) Cross-Defendant **HANSON'S MASONRY, INC.**
Alan H. Finkel **Proskauer, Rose, Goetz & Mendelsohn** 2121 Avenue of the Stars, Suite 2700 Los Angeles, CA 90067-5010 (310) 284-5650 (310) 557-2193 (FAX) (Personal Counsel) **THE ANDEN GROUP**	

28632 1\725\TEM

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FILED
SAN MATEO COUNTY
AUG 25 1997
Clerk of the Superior Court
DEPUTY CLERK

SC
11-13-97

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 32 (Endorsed-Filed August 18, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 21, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

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Thomas A. Miller, Esq. Law Offices of Thomas A. Miller 4695 Mac Arthur Court, Suite #1150 Newport Beach, CA 92660 (714) 252-9150 (714) 442-0646 (Fax)	Plaintiff, Edgewater Isle HOA, Inc. (in 7/28/97)
Marisa D'Amico, Esq. Bishop, Barry, Howe, Haney & Ryder Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111 (415) 421-8550 (415) 362-4730 (Fax)	The Anden Group, Esden Partners, MDG Associates, Ltd., ESR Corporation, TMD Corporation, and Miden Corporation
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Gonsalves & Santucci, Inc. dba
Conco Cement Company

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Fisk, Firenze & McLean

Scott C. Finch, Esq. Larson & Burnham P.O. Box 119 Oakland, CA 94604 (510) 444-6800 (510) 835-6666 (Fax)	Hanson's Masonry, Inc. (in 7/96)
J. Michael Higginbotham, Esq. Long & Levit 101 Califonria Street, Suite #2300 San Francisco, CA 94111 (415) 397-2222 (415) 397-6392 (Fax)	Ruth & Going, Inc. and Melvin Lee Associates
Robert P. Jolly, Esq. Jolly, Herlihy & Hepler 275 Battery Street, Suite #600 San Francisco, CA 94111 (415) 658-3100 (415) 658-3094 (Fax)	M&H Electric (in 8/97)
Donald L. Sullivan, Esq. Clapp, Moroney, Bellagamba, Davis & Vucinich 4400 Bohannon Drive, Suite #100 Menlo Park, CA 94025 (650) 327-1300 (650) 327-3707 (Fax)	Mission Drywall of San Jose and Silva Fence Company (in 5/96)
Kevin J. Tully, Esq. Greene, Chauvel, Descalso & Tully 901 Mariner's Island Blvd., Suite #400 San Mateo, CA 94404-1594 (650) 573-5900 (650) 573-9689 (Fax)	North Empire Construction and and Sacramento A-1 Door
Nancy A. McPherson, Esq. Holmes, Drevlow, Carmody, Schmidt & Nakano 180 Montgomery Street, Suite #2100 San Francisco, CA 94104 (415) 362-1422 (415) 362-7054 (Fax)	Sacramento A-1 Door
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Tara Coatings

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Tara Coatings

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Courtesy Copy

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STATE BAR NO. 46384
LAW OFFICES OF
Filice & DeMaria
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Concord, California 94520
Tel: (510) 676-5094 Fax: (510) 676-0548

FILED
SAN MATEO COUNTY
AUG 2 5 1997
Clerk of the Superior Court
By M Miller
DEPUTY CLERK

ATTORNEY FOR Defendant Gonsalves & Santucci, Inc. dba Conco Cement Company, named herein as DOE 17, Conco Cement Company

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., a non-profit mutual benefit corporation, on behalf of itself and as representative of all EDGEWATER ISLE homeowners,	NO. 388872 ANSWER TO SECOND AMENDED COMPLAINT
Plaintiff, vs. THE ANDEN GROUP, a California general partnership, THE ANDEN CORPORATION, a California corporation, et al., Defendants. _____/	

COMES NOW defendant GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY, named herein as DOE 17, Conco Cement Company, and in answer to the allegations set forth in the Second Amended Complaint of EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., this answering defendant generally and specifically denies each and every allegation contained therein as to each cause of action alleged, and further denies that plaintiff has

suffered damages in any sum whatsoever by reason of any act or omission on the part of this answering defendant.

AS AND FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE, this answering defendant alleges that plaintiff's Second Amended Complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action against this defendant.

AS AND FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE, this answering defendant alleges that plaintiff itself was negligent and careless in and about the matters alleged, and the negligence of plaintiff, when compared with that of defendant, if any, offsets and negates any recovery by plaintiff.

AS AND FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE, this answering defendant alleges that any obligation, loss or damages allegedly sustained by plaintiff was either wholly or in part negligently caused by persons, firms, corporations, or entities other than this answering defendant, and that said negligence comparatively reduces the percentage of negligence, if any, of this answering defendant.

AS AND FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE, this answering defendant alleges that plaintiff's Second Amended Complaint, and each alleged cause of action therein, is barred by Sections 340, 339, 337.1, 337.15 and 337 of the California Code of Civil Procedure.

WHEREFORE, defendant GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY prays judgment as follows:

1. That plaintiff take nothing by its Second Amended

Complaint;

2. For costs of suit incurred herein; and

3. For such other and further relief as the Court deems appropriate.

Dated: August 21, 1997

FILICE & DeMARIA

By _____
Anthony J. DeMaria
Attorney for Defendant
Gonsalves & Santucci, Inc.
dba Conco Cement Company

PROOF OF SERVICE BY MAIL

[C.C.P. §§ 1013a, 2015.5]

I am a citizen of the United States and a resident of Contra Costa County, State of California; I am over the age of eighteen years and not a party of the within entitled cause; my business address is 1130 Burnett Avenue, Suite H, Concord, California 94520.

On August 21, 1997, I served the within

ANSWER TO SECOND AMENDED COMPLAINT

on the interested parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Concord, California, addressed as follows:

Thomas E. Miller, Esq.
LAW OFFICES OF THOMAS E. MILLER
4695 MacArthur Court, Suite 1150
Newport Beach, CA 92660

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 21, 1997, at Concord, California.

Melicent C. Kiernan

5074

William L. Nagle, SBN 59788
Special Master/Mediator
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(650) 579-0500
(650) 579-0623 (Fax)

1997 AUG 18 P 4:26

FILED
CLERK OF THE SUPERIOR COURT
by [signature]
DEPUTY CLERK

Sut 11-13-97

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

PRE-TRIAL ORDER NO. 32

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that the Special Master shall hold a Status/Settlement Conference with all counsel and coverage counsel on September 12, 1997 at 9:30 a.m. at the San Mateo County Superior Courthouse, in a courtroom to be announced, 401 Marshall Street, Redwood City, California.

Principals with authority, including insurance claims representatives, shall attend via telephone standby.

APPROVED AND RECOMMENDED:

DATED: August 7, 1997

[signature]
William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: 8-18-97

[signature]
Judge of the Superior Court

Scott C. Finch, State Bar No. 083406
Michael K. Brisbin, State Bar No. 169495
LARSON & BURNHAM
A Professional Corporation
P.O. Box 119
Oakland, California 94604
Telephone: (510) 444-6800
Facsimile: (510) 835-6666

Attorneys for Cross-Defendant
HANSON'S MASONRY, INC.

FILED
SAN MATEO COUNTY
AUG 14 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al.,

Plaintiff,

v.

THE ANDEN GROUP,. et al.,

Defendants.

AND RELATED CROSS-ACTIONS

No. 388872

DEFENDANT HANSON'S MASONRY, INC.'S ANSWER TO FIRST AMENDED COMPLAINT

Defendant Hanson's Masonry, Inc., answering the first amended complaint of plaintiff Edgewater Isle Homeowners Association, denies generally and specifically, each and every, all and singular, the allegations of said first amended complaint, and each cause of action thereof, and further denies that plaintiff has been damaged in any sum or sums or at all.

WHEREFORE, this answering defendant prays for judgment as hereinafter set forth.

AFFIRMATIVE DEFENSES

As a first affirmative defense to each cause of action of the first amended complaint, plaintiff was partially, if not wholly, negligent or otherwise at fault on its own part and should be barred from recovery of that portion of the damages directly attributable to its proportionate share of the negligence or fault, pursuant to the doctrine of comparative negligence.

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As a second affirmative defense to each cause of action of the first amended complaint, the damages sustained by plaintiff, if any, were caused, in whole or in part, by the negligence or fault of others for which this defendant is not liable or responsible.

As a third affirmative defense to each cause of action of the first amended complaint, plaintiff was actively negligent or otherwise at fault in the matters alleged and that this active negligence or fault bars plaintiff's right to indemnity from this defendant.

As a fourth affirmative defense to each cause of action of the first amended complaint, the first amended complaint does not state facts sufficient to constitute a cause of action against this defendant.

As a fifth affirmative defense to each cause of action of the first amended complaint, the first amended complaint fails to state facts sufficient to state any claim upon which an award of punitive damages can be made.

As a sixth affirmative defense to each cause of action of the first amended complaint, punitive damages are barred by the Constitution of the United States and the Constitution of California.

As a seventh affirmative defense to each cause of action of the first amended complaint, the first amended complaint, and each cause of action thereof, is barred by the statute of limitation set forth in the California Code of Civil Procedure beginning with section 335 and continuing through section 349.4, and more particularly, but not limited to, the following: sections 337(1), 337.1, 337.15, 338, 339, 340 and 343; and by sections 2607(3)(a), 2725(1) and (2) of the Uniform Commercial Code of the State of California.

As an eighth affirmative defense to each cause of action of the first amended complaint, plaintiff's first amended complaint, and each cause of action therein, is barred by the doctrine of laches.

As a ninth affirmative defense to each cause of action of the first amended complaint, plaintiff failed to mitigate its damages.

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As a tenth affirmative defense to each cause of action of the first amended complaint, there is a defect or misjoinder of parties pursuant to Code of Civil Procedure section 430.10(d). Specifically, plaintiff failed to join all parties necessary for final determination of this action.

As an eleventh affirmative defense to each cause of action of the first amended complaint, the provisions of the "Fair Responsibility Act of 1986" (commonly known as Proposition 51, Civil Code sections 1430, 1431, 1431.1, 1431.2, 1431.3, 1431.4, 1431.5 and 1432) are applicable to this action to the extent that plaintiff's injuries and damages, if any, were legally caused or contributed to by the negligence or fault of persons or entities other than this answering defendant.

As a twelfth affirmative defense to each cause of action of the first amended complaint, by virtue of the nature of the activity and/or incident alleged in the first amended complaint, and the parties' relationship to the activity and/or incident, defendant owed no legal duty to plaintiff under the doctrine of primary assumption of risk.

As a thirteenth affirmative defense to each cause of action of the first amended complaint, the damages complained of in the first amended complaint were caused in whole or in part by the misuse and abuse of the product.

As a fourteenth affirmative defense to each cause of action of the first amended complaint, plaintiff's first amended complaint, and each cause of action therein, is barred by the doctrine of unclean hands.

As a fifteenth affirmative defense to each cause of action of the first amended complaint, plaintiff has waived and/or is estopped from alleging the matters set forth in said first amended complaint.

As a sixteenth affirmative defense to each cause of action of the first amended complaint, defendant presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, defenses available. Defendant reserves herein the right to assert additional defenses in the event discovery indicates that they would be appropriate.

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As a seventeenth affirmative defense to each cause of action of the first amended complaint, plaintiff's first amended complaint and each alleged cause of action therein is absolutely barred by the provisions of Civil Code sections 1473, 1474, 1475, 1476, 1477, and each of them.

As an eighteenth affirmative defense to each cause of action of the first amended complaint, plaintiff's first amended complaint and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for total implied warranty.

As a nineteenth affirmative defense to each cause of action of the first amended complaint, defendant Hanson's Masonry, Inc. is informed and believes, and upon such information and belief alleges, that if plaintiff suffered any losses or damages as alleged in its first amended complaint, which this answering defendant denies, then such losses or damages were caused solely by the project owners, developers, or general contractors' breach of implied warranty of suitability of the site, plans, and specifications for the subject work of improvement, and not by any act or omission for which this answering defendant may be held legally or equitably responsible.

WHEREFORE, this answering defendant prays for judgment as follows:

1. That plaintiff take nothing by reason of the first amended complaint on file herein;
2. For reasonable attorney fees;
3. For costs of suit incurred herein; and
4. For such other and further relief as the court deems just and proper.

DATED: August 12, 1997

LARSON & BURNHAM

By _____
MICHAEL K. BRISBIN
Attorneys for Cross-Defendant
HANSON'S MASONRY, INC.

510y01!/234610

Re: Edgewater Isle HOA v. The Anden Group, et al.
Court: San Mateo County Superior
Action No.: 388872

DECLARATION OF SERVICE BY MAIL
[Code Civ. Proc. .. 1013a(3), 2015.5]

I declare:

I am over age 18, not a party to this action, and am employed in Alameda County at 1901 Harrison Street, 11th Floor, Oakland, California 94612 (mailing address: Post Office Box 119, Oakland, California 94604).

On August 12, 1997, following ordinary business practices, I placed for collection and mailing at the office of LARSON & BURNHAM, located at 1901 Harrison Street, 11th Floor, Oakland, California 94612, a copy(ies) of the attached:

DEFENDANT HANSON'S MASONRY, INC.'S ANSWER TO FIRST AMENDED COMPLAINT

in a sealed envelope(s), with postage fully prepaid, addressed to:

SEE ATTACHED SERVICE LIST

I am familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service and, in the ordinary course of business, the correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

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

DATED: August 12, 1997

Sharon R. Jordan

#188124

Re: Edgewater Isle HOA v. The Anden Group, et al.
Court: San Mateo County Superior
Action No.: 388872

- SERVICE LIST -

William L. Nagle, Esq. NAGLE, KRUG & WINTERS 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116 (415) 579-1422 Fax: (415) 579-0623	Special Master
Thomas Miller LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, CA 92660	Attorneys for Plaintiff EDGEWATER ISLE HOA, INC.
Thomas O. Haran, Esq. Marisa L. D'Amico, Esq. BISHOP, BARRY, HOWE, HANEY & RYDER 275 Battery Street, 12th Floor San Francisco, CA 94111 (415) 421-8550 Fax: (415) 362-4730	Attorneys for THE ANDEN GROUP
John F. Carniato, Esq. LAW OFFICES/JOHN J. CARNIATO 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552 Fax: (510) 283-9830	Attorneys for Defendants GLORIA DEVELOPMENT CO., INC., O'BRIEN & HICKS, INC., and O'BRIEN & HICKS(s) 1988 & BEYOND, LTD.
Josh M. Shinnick, Esq. HOGE, FENTON, JONES & APPEL 60 South Market Street San Jose, CA 95113-2396 (408) 287-9501 Fax: (408) 287-2583	Attorneys for O'BRIEN & HICKS
J. Michael Higginbotham, Esq. LONG & LEVIT LLP 101 California Street, Suite 2300 San Francisco, CA 94111 (415) 397-2222 Fax: (415) 397-6392	Attorneys for MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.
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& TULLY
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EMPIRE CONSTRUCTION

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Fax: (415) 981-2097

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Attorneys for
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CLAPP, MORONEY, BELLEGAMBA,
DAVIS & VUCINICH
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(415) 327-1300
Fax: (415) 327-3707

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MISSION DRYWALL OF SAN JOSE

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COLLINS & SCHLOTHAULER
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San Jose, CA 95113-2369
(408) 298-5161
Fax: (408) 297-5766

Attorneys for Defendant
SILVA FENCE

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (*Name*): PLAINTIFF Ref. No.: 238053.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I **served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: MELVIN LEE & ASSOCITES
   b. Person served: MELVIN LEE, PRESIDENT
   c. Address: 1650 PACIFIC AVE.
      SAN FRANCSICO, CA

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* JORDAN STPARG, SUPERVISOR

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on (*date*): 7/28/97 (4). at (time): 12:50 P.M.
      (5) A **declaration of diligence** is attached. *(substituted service on natural person, minor, conservatee, or candidate.)*

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 3
   c. on behalf of: MELVIN LEE & ASSOCIATES
      under: OTHER: (business entity, form unknown)

5. **Person Serving** (*name, address, and telephone No.):*
   S. RAMOS
   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 6, 1997

DECLARATION OF DILIGENCE

I, the Undersigned, declare as follows:

I am over the age of eighteen years and not a party to the within action. I further declare that we received the within process on July 25, 1997 and that after due search and diligent inquiry we have been unable to affect personal service within the named:

MELVIN LEE & ASSOCIATES

The dates, times and circumstances of the attempted service are as follows:

1650 PACIFIC AVE.
SAN FRANCISCO, CA

ATTEMPTS MADE:

DATE(s)	TIME(s)	AT ADDRESS NO.	RESULTS
7/26/97	10:00 A.M.	1	THIS IS A BUSINESS. THE DOORS WERE LOCKED. NO ONE ANSWERED.
7/27/97	12:00 P.M.	1	THE BUSINESS IS STILL CLOSED.
7/28/97	12:50 P.M.	1	THE SERVER SPOKE TO A MAN NAMED JORDAN STPARG WHO IDENTIFIED HIMSELF AS THE SUPERVISOR. HE WAS NOTIFIED OF THE NATURE OF THE DOCUMENTS AND THUS SUBSERVED.

H. PECK, PROCESS MANAGER
EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, CA 94102
(415) 552-9900

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

August 4, 1997 _____

DECLARATION OF DILIGENCE

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON SECOND AMENDED COMPLAINT; PRETRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE; SERVICE LIST; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

MELVIN LEE & ASSOCIATES
1650 PACIFIC AVE.
SAN FRANCISCO, CA

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237968.JM	(714) 252-9150 ORIGINAL		FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO			
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.			
PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.: / CASE NUMBER: 388872

SET 11-13

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: SOIL FOUNDATION SYSTEMS
   b. Person served: PATRICK FAIN, VICE PRESIDENT
   c. Address: 2680 BAY SHORE PARKWAY, #411
   MOUNTAIN VIEW, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 11:42 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 2
   c. on behalf of *(specify)*: SOIL FOUNDATION SYSTEMS
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
J. SALES

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: August 4, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 238044.JM	(714) 252-9150 ORIGINAL	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME: / DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: RUTH & GOING, INC.
   b. Person served: BOB SMITH, PRESIDENT
   c. Address: 1630 ZANKER RD.
      SAN JOSE, CA 95112

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* CATHY DE MARIA, BUSINESS ADMINISTRATOR

      (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/28/97 (4) at (time): 12:03 P.M.

   d. **by causing** copies to be mailed to the address in item 2c.
      a declaration of mailing is attached

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 1
   c. on behalf of (*specify*): RUTH & GOING, INC.
      under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON SECOND AMENDED COMPLAINT; PRETRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE; SERVICE LIST; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

RUTH & GOING, INC.
1630 ZANKER RD.
SAN JOSE, CA 95112

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237966.JM	(714) 252-9150 **ORIGINAL**		FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG 7 1997 Clerk By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO			
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.			
PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: BENNETT FLOORS
   b. Person served: IRA C. BENNETT, OWNER
   c. Address: 12418 EL POMAR WAY
      WATERFORD, CA 95386

3. I served the party in item 2a by personally delivering the copies
   (1) on *(date)*: 7/27/97 (4) at (time): 6:36 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 27
   c. on behalf of (*specify*): BENNETT FLOORS
      under: OTHER (sole proprietorship)

5. **Person Serving** (*name, address, and telephone No.):*
   R. STODDART

   C/O EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237974.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: FRAMES WORK CONNECTION
   b. Person served: MARTIN FRAME, CORPORATE OFFICER, AUTHORIZED TO ACCEPT
   c. Address: 38201 CHERRY STREET
      NEWARK, CA 94560

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* JULIE CONTTIE, RECEPTIONIST

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/28/97 (4) at (time): 11:17 A.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 28
   c. on behalf of *(specify)*: FRAMES WORK CONNECTION
      under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 6, 1997

J. A. Sales

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

FRAMES WORK CONNECTION
38201 CHERRY ST.
NEWARK, CA 94560

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237978.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG 7 1997 Clerk By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: B.L. COHEN LANDSCAPE, INC.
   b. Person served: BARRY L. COHEN, CHIEF EXECUTIVE OFFICER
   c. Address: 250 COMMERCIAL ST.
   SAN JOSE, CA 95112

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 12:25 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 30
   c. on behalf of *(specify)*: B.L. COHEN LANDSCAPE, INC.
   under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237970.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG 7 1997
Clerk of the Superior Court
By DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: HANSON'S MASONRY
   b. Person served: NANCY HANSON, CORPORATE SECRETARY, AUTHORIZED TO ACCEPT SERVICE OF PROCESS
   c. Address: 3828 COTTONWOOD DRIVE
   DANVILLE, CA 94506

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/27/97 (2) at *(Time)*: 3:29 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 31
   c. on behalf of *(specify)*: HANSON'S MASONRY
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   M. OLIVA

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

Michael Oliva

LAW OFFICES OF THOMAS MIL[illegible]R 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237979.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: TECHNIBUILDERS IRON, INC.
   b. Person served: LEROY HEINRICHS, REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS
   c. Address: 1049 FELIPE AVE.
   SAN JOSE, CA 95112

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* CHRISTINE CHRISMAN, RECEPTIONIST

   (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/28/97 (4) at (time): 2:23 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 32
   c. on behalf of *(specify)*: TECHNIBUILDERS IRON, INC.
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 6, 1997

J. A. Sales

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

TECHNIBUILDERS IRON
1049 FELIPE AVE.
SAN JOSE, CA 95112

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237980.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: CARLOS RODRIGUEZ PAINTING
   b. Person served: CARLOS RODRIGUEZ, OWNER
   c. Address: 2046 DANDERHALL WAY
      SAN JOSE, CA 95121

3. I served the party in item 2a by personally delivering the copies
   (1) on *(date)*: 7/26/97 (4) at (time): 8:50 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 33
   c. on behalf of (*specify*): CARLOS RODRIGUEZ PAINTING
      under: OTHER (usiness entity, form unknown)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237981.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I **served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: ASH ROOFING
   b. Person served: LINDA ASH, PRESIDENT, CORPORATE OFFICER, AUTHORIZED TO ACCEPT
   c. Address: 1191 N 5TH ST.
   SAN JOSE, CA 95112

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 12:18 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 35
   c. on behalf of *(specify)*: ASH ROOFING
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.)*:
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 6, 1997

J. A. Sales

LAW OFFICES OF THOMAS MILL[illegible] 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237971.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk [illegible]
By [signature]
DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: A.J. SULLIVAN COMPANY
   b. Person served: ARTHUR JAMES SULLIVAN, OWNER
   c. Address: 16 ADAM WAY
      ATHERTON, CA 94027

3. I served the party in item 2a by personally delivering the copies
   (1) on *(date)*: 7/27/97 (4) at (time): 12:25 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 36
   c. on behalf of (*specify*): A.J. SULLIVAN COMPANY
      under: OTHER (business entity, form unknown)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

[signature]

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (*Name*): PLAINTIFF Ref. No.: 237982.JM	(714) 252-9150 ORIGINAL	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME: / DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: CELL-CRETE
   b. Person served: LEWIS C.G. FISHER, CORPORATE OFFICER, AUTHORIZED TO ACCEPT SERVICE OF PROCESS
   c. Address: 130 SUNSET BLVD. HAYWARD, CA 94540

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* PATRICIA SELVER

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on (*date*): 7/28/97 (4) at (time): 11:21 A.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 37
   c. on behalf of (*specify*): CELL-CRETE
      under: OTHER: (business entity, form unknown)

5. **Person Serving** (*name, address, and telephone No.):*
   M. OLIVA
   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 6, 1997

M. OLIVA

DECLARATION OF DILIGENCE

I, the Undersigned, declare as follows:

I am over the age of eighteen years and not a party to the within action. I further declare that we received the within process on July 25, 1997 and that after due search and diligent inquiry we have been unable to affect personal service within the named:

CELL-CRETE

The dates, times and circumstances of the attempted service are as follows:

130 SUNSET BLVD.
HAYWARD, CA 94540

ATTEMPTS MADE:

DATE(s)	TIME(s)	AT ADDRESS NO.	RESULTS
7/26/97	9:00 A.M.	1	THIS IS A BUSINESS ADDRESS. THE BUSINESS WAS CLOSED.
7/27/97	2:40 P.M.	1	THE BUSINESS WAS CLOSED.
7/28/97	11:21 A.M.	1	THE SERVER SPOKE WITH A WOMAN NAMED PATRICIA SELVER WHO IDENTIFIED HERSELF AS THE PERSON IN CHARGE. SHE WAS NOTIFIED OF THE NATURE OF THE DOCUMENTS AND THUS SUBSERVED.

H. PECK, PROCESS MANAGER
EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, CA 94102
(415) 552-9900

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

August 4, 1997 _____

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

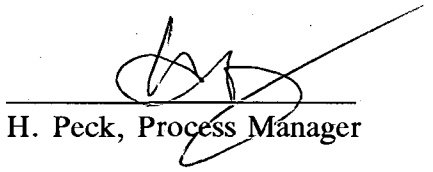
to the office/residence of the addressed as follows:

CELL-CRETE
130 SUNSET BOULEVARD
HAYWARD, CA 94540

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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



H. Peck, Process Manager

LAW OFFICES OF THOMAS MIL[redacted] 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (*Name*): PLAINTIFF Ref. No.: 237983.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: EDWARD L. PACK & ASSOCITES, INC.
   b. Person served: JEFFREY K. PACK, REGISTERED AGENT
   c. Address: 2177 N. HAMPTON DR.
   SUNNYVALE, CA

3. I served the party in item 2a by personally delivering the copies
   (1) on (*date*): 7/26/97 (4) at (time): 7:05 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 39
   c. on behalf of (*specify*): EDWARD L. PACK & ASSOCITES, INC.
   under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 6, 1997

J. A Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237972.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: PIOMBO-FISK, FIRENZE, MCLEAN
   b. Person served: ROBERT DAMIR, REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS
   c. Address: 126 DORCHESTER WAY
      SAN FRANCISCO, CA 94127

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/26/97 (2) at *(Time)*: 8:20 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 42
   c. on behalf of *(specify)*: PIOMBO-FISK, FIRENZE, MCLEAN
      under: OTHER: (a joint venture)

5. **Person Serving** *(name, address, and telephone No.):*
   H. PECK

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237992.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	NUMBER OF CASE:
				*p1702X 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: CHRISP COMPANY
   b. Person served: TOM FANNIN, CONTROLLER, AUTHORIZED TO ACCEPT SERVICE OF PROCESS
   c. Address: 43650 OSGOOD ROAD
      FREMONT, CA

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* KAREN WLORLARVYK

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/28/97 (4) at (time): 12:19 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 43
   c. on behalf of (*specify*): CHRISPS COMPANY
      under: OTHER: (business entity, form unknown)

5. **Person Serving** *(name, address, and telephone No.):*
   M. OLIVA
   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 6, 1997

Michael Oliva

DECLARATION OF DILIGENCE

I, the Undersigned, declare as follows:

I am over the age of eighteen years and not a party to the within action. I further declare that we received the within process on July 25, 1997 and that after due search and diligent inquiry we have been unable to affect personal service within the named:

CHRISP COMPANY

The dates, times and circumstances of the attempted service are as follows:

43650 OSGOOD RD.
FREMONT, CA

ATTEMPTS MADE:

DATE(s)	TIME(s)	AT ADDRESS NO.	RESULTS
7/26/97	9:35 A.M.	1	THIS IS A BUSINESS ADDRESS. THE BUSINESS WAS CLOSED.
7/27/97	3:15 P.M.	1	THE BUSINESS WAS CLOSED.
7/28/97	12:19 P.M.	1	THE SERVER SPOKE WITH A WOMAN NAMED KAREN WLORLARVYK WHO IDENTIFIED HERSELF AS THE PERSON IN CHARGE. SHE WAS NOTIFIED OF THE NATURE OF THE DOCUMENTS AND THUS SUBSERVED.

H. PECK, PROCESS MANAGER
EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, CA 94102
(415) 552-9900

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

August 6, 1997

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

CHRISP COMPANY
43650 OSGOOD RD.
FREMONT, CA

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237969.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: R.D. MOORE CONSTRUCTION COMPANY
   b. Person served: ROBERT MOORE, REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS
   c. Address: 7405 CRONIN CIRCLE
      DUBLIN, CA 94568

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/27/97 (2) at *(Time)*: 2:49 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 44
   c. on behalf of *(specify)*: R.D. MOORE CONSTRUCTION COMPANY
      under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.)*:
   M. OLIVA

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

Richard Oliva

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 23799O.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: SIERRA PRECAST
   b. Person served: RAY J. SCHOLZ, REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS
   c. Address: 1 LIVE OAK AVE.
   MORGAN HILL, CA 95037

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* GINA ELLIOTT, SECRETARY

   (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/28/97 (4) at (time): 4:25 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 45
   c. on behalf of *(specify)*: SIERRA PRECAST
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 6, 1997

J. Sales

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

SIERRA PRECAST
ONE LIVE OAK AVENUE
MORGAN HILL, CA 95037

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILL[illegible] 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237993.JM	(714) 252-9150 **ORIGINAL**		FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Sup. Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO			
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.			
PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: HOWARD ELECTRIC
   b. Person served: DON BEUKERS, PRESIDENT
   c. Address: 1195 N 5TH ST.
   SAN JOSE, CA 95112

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 12:18 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 47
   c. on behalf of *(specify)*: HOWARD ELECTRIC
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

J. Sales

LAW OFFICES OF THOMAS MILL 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (*Name*): PLAINTIFF Ref. No.: 237967.JM	(714) 252-9150 ORIGINAL	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME: / DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMON ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: CONTINENTAL POOLS
   b. Person served: ALBERT LEROY TOWNSEND, PRESIDENT & REGISTERED AGENT
   c. Address: 959 GILCHAIT DR., #1
   SAN JOSE, CA 95133

3. I served the party in item 2a by personally delivering the copies
   (1) on *(date)*: 7/27/97
   (2) at (time): 8:45 p.m.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 48
   c. on behalf of (*specify*): CONTINENTAL POOLS
   under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
J. SALES

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: August 6, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237991.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	
PROOF OF SERVICE — HEARING DATE: — TIME:	DEPT./DIV.: — CASE NUMBER: 388872

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: MJB PIPELINE
   b. Person served: MANUEL DE FREITAS, OWNER
   c. Address: 2347 DUNN RD.
   HAYWARD, CA 94540

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* MAUREEN ROBERTS, PERSON IN CHARGE

   (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/28/97 (4) at (time): 11:33 A.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 49
   c. on behalf of (*specify*): MJB PIPELINE
   under: OTHER: (business entity, form unknown)

5. **Person Serving** (*name, address, and telephone No.):*
   M. OLIVA
   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

Richard Oliva

DECLARATION OF DILIGENCE

I, the Undersigned, declare as follows:

I am over the age of eighteen years and not a party to the within action. I further declare that we received the within process on July 25, 1997 and that after due search and diligent inquiry we have been unable to affect personal service within the named:

MJB PIPELINE

The dates, times and circumstances of the attempted service are as follows:

2347 DUNN RD.
HAYWARD, CA 94540

ATTEMPTS MADE:

DATE(s)	TIME(s)	AT ADDRESS NO.	RESULTS
7/26/97	9:15 A.M.	1	THIS IS A BUSINESS ADDRESS. THE BUSINESS WAS CLOSED.
7/27/97	2:55 P.M.	1	THE BUSINESS WAS CLOSED.
7/28/97	11:33 A.M.	1	THE SERVER SPOKE WITH A WOMAN NAMED MAUREEN ROBERTS WHO IDENTIFIED HERSELF AS THE PERSON IN CHARGE. SHE WAS NOTIFIED OF THE NATURE OF THE DOCUMENTS AND THUS SUBSERVED.

M. OLIVA
EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, CA 94102
(415) 552-9900

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

August 6, 1997 Richard Oliva

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

MJB PIPELINE
2347 DUNN ROAD
HAYWARD, CA 94540

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237977.JM	(714) 252-9150 ORIGINAL		FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO			
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.			
PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: PACIFIC LINING COMPANY, INC.
   b. Person served: JOHAN PERSLOW, PRESIDENT
   c. Address: 71850 JAGUAR WAY
      PALM DESERT, CA 92260

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/26/97 (2) at *(Time)*: 2:30 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 50
   c. on behalf of *(specify)*: PACIFIC LINING COMPANY, INC.
      under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   N. OSBORNE

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

LAW OFFICES OF THOMAS MILLER (714) 252-9150 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 238061.JM **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: SILVA FENCE COMPANY
   b. Person served: STEVE DREXLER, OWNER
   c. Address: 615 DAY VALLEY RD.
   APTOS, CA 95003

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 10:45 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 9
   c. on behalf of *(specify)*: SILVA FENCE COMPANY
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
J. SALES

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: July 31, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 238062.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: SAN CARLOS SHEETMETAL WORKS
   b. Person served: GARY DIBENEDETTI, PRESIDENT
   c. Address: 4068 PAGE COURT
   PLEASANTON, CA 94588

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 9:15 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 10
   c. on behalf of *(specify)*: SAN CARLOS SHEETMETAL WORKS
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
H. PECK

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: July 31, 1997

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 238064.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: ALCAL ROOFING AND INSULATION
   b. Person served: DAVID LUCCHETTI, AUTHORIZED TO ACCEPT SERVICE OF PROCESS
   c. Address: 3001 "I" ST.
   SACARAMENTO, CA 95814

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:*(name and title or relationship to person indicated in item 2b):* NANCY CLARK, SUPERVISOR

   (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/28/97 (4) at (time): 2:20 P.M.

   d. **by causing** copies to be mailed to the address in item 2c.
   a declaration of mailing is attached

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 11
   c. on behalf of *(specify)*: ALCAL ROOFING AND INSULATION
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   T. BRINSON

   C/O EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

T. Brinson

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON SECOND AMENDED COMPLAINT; PRETRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE; SERVICE LIST; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

ALCAL ROOFING AND INSULATION
3001 "I" STREET
SACRAMENTO, CA 95814

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (*Name*): PLAINTIFF Ref. No.: 238065.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME: / DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: DANIEL SMITH PLASTERING, INC.
   b. Person served: DANIEL SMITH
   c. Address: 4208 CHABOYA RD.
   SAN JOSE, CA 95148

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* MERIDTH DAVIS, SECRETARY

   (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on (*date*): 7/28/97 (4) at (time): 6:00 P.M.

   d. **by causing** copies to be mailed to the address in item 2c. First class mail, postage prepaid and correct. a declaration of mailing is attached

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 12
   c. on behalf of (*specify*): DANIEL SMITH PLASTERING, INC.
   under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: July 31, 1997

J. Sales

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON SECOND AMENDED COMPLAINT; PRETRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE; SERVICE LIST; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

DANIEL SMITH PLASTERING, INC.
4208 CHABOYA RD.
SAN JOSE, CA 95148

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 238066.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I **served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: TARA COATINGS
   b. Person served: KEVIN GREELY, PRESIDENT
   c. Address: 2281-B VIA DE MERCADOS
      CONCORD, CA

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* SANDRA MORIARTY, OFFICE MANAGER

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/28/97 (4) at (time): 4:10 P.M.

   d. **by causing** copies to be mailed to the address in item 2c. First class mail, postage prepaid and correct. a declaration of mailing is attached

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 13
   c. on behalf of (*specify*): TARA COATINGS
      under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   H. FATTAHI

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON SECOND AMENDED COMPLAINT; PRETRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE; SERVICE LIST; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

TARA COATINGS
2281-B VIA DE MERADOS
CONCORD, CA

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MIL[redacted]R 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237976.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I **served copies** of the:
SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: CORBIN/YAMAFUJI & PARTNERS aka CYP, Inc.
   b. Person served: DONALD R. CORBIN, PRESIDENT
   c. Address: 37 MONTPELLIER, #10
   NEWPORT BEACH, CA 92660

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:*(name and title or relationship to person indicated in item 2b):* RON DURAN, SECURITY OFFICER

   (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/27/97 (4) at (time): 8:25 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 14
   c. on behalf of *(specify)*: CORBIN/YAMAFUJI & PARTNERS aka CYP, Inc.
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
M. BOLOURCHI

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: August 6, 1997

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

CORBIN/YAMAFUJI & PARTNERS aka CYP, Inc.
37 MONTPELLIER, #10
NEWPORT BEACH, CA 92660

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237984.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk
By
DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: T & D TILE, INC.
   b. Person served: ALLEN DELLA MAGGIORE, CORPORATE OFFICER, AUTHORIZED TO ACCEPT SERVICE OF PROCESS
   c. Address: 1180 WALSH AVE.
   SANTA CLARA, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 3:40 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 18
   c. on behalf of *(specify)*: T & D TILE
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 6, 1997

J. Sales

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

T & D TILE
1180 WALSH AVE.
SANTA CLARA, CA 95054

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 238409.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: CROWN PLASTICS
   b. Person served: JOHN L. BLADES, REGISTERED AGENT
   c. Address: 1334 MELODY RD.
   MARYSVILLE, CA 95901

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:*(name and title or relationship to person indicated in item 2b):* DONNA MCFARLANE, PERSON IN CHARGE

   (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/28/97 (4) at (time): 3:25 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify):DOE 19
   c. on behalf of *(specify)*: CROWN PLASTICS
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   T. BRINSON

   C/O **EXPRESS NETWORK, INC.**
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

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

Date: August 6, 1997

T. Brinson

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

CROWN PLASTICS
1334 MELODY RD.
MARYSVILLE, CA

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILL 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237985.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Sup. Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: ACME INDUSTRIES
   b. Person served: T.J. BARTELL, PRESIDENT
   c. Address: 5807 WINFIELD BLVD.
      SAN JOSE, CA

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:*(name and title or relationship to person indicated in item 2b):* BARBARA MARNY, MANAGER

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/28/97 (4) at (time): 3:58 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 21
   c. on behalf of *(specify)*: ACME INDUSTRIES
      under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 6, 1997

J. A. Sales

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

ACME INDUSTRIES
5807 WINFIELD BLVD.
SAN JOSE, CA 95123

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237986.JM	(714) 252-9150 ORIGINAL	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: ASSOCIATED LIGHTING FIXTURE COMPANY
   b. Person served: BOB KLATZ, OWNER
   c. Address: 1585 FOLSOM ST.
   SAN FRANCISCO, CA 94103

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 4:00 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 22
   c. on behalf of *(specify)*: ASSOCITED LIGHTING FIXTURE COMPANY
   under: OTHER (business entity, form unknown)

5. **Person Serving** *(name, address, and telephone No.)*:
   S. MATON

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237973.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: M & H ELECTRIC
   b. Person served: MANUEL ROMAN, JR., REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS
   c. Address: 5059 MOORPARK AVE.
   SAN JOSE, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/26/97 (2) at *(Time)*: 6:15 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 23
   c. on behalf of *(specify)*: M & H ELECTRIC
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: August 4, 1997

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237987.JM	(714) 252-9150 ORIGINAL	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

2. a. Party served: BORCHERS BROS.
   b. Person served: JOHN BORCH, PRESIDENT
   c. Address: 20 SOUTH AUTUMN
      SAN JOSE, CA 95110

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* CHRIS HOEBEL, SUPERVISOR

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/28/97 (4) at (time): 12:42 P.M.

   d. **by** causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. as the person sued under the fictitious name of (specify): DOE 25
   c. on behalf of (*specify*): BORCHERS BROS.
      under: OTHER: (business entity, form unknown)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES
   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 6, 1997

J. Sales

DECLARATION OF DILIGENCE

I, the Undersigned, declare as follows:

I am over the age of eighteen years and not a party to the within action. I further declare that we received the within process on July 25, 1997 and that after due search and diligent inquiry we have been unable to affect personal service within the named:

BORCHERS BROS.

The dates, times and circumstances of the attempted service are as follows:

20 SOUTH AUTUMN
SAN JOSE, CA

ATTEMPTS MADE:

DATE(s)	TIME(s)	AT ADDRESS NO.	RESULTS
7/26/97	10:00 A.M.	1	THIS IS A BUSINESS ADDRESS. THE BUSINESS WAS CLOSED.
7/27/97	2:42 P.M.	1	THE BUSINESS WAS CLOSED.
7/28/97	12:42 P.M.	1	THE SERVER SPOKE WITH A MAN NAMED CHRIS HOEBEL WHO IDENTIFIED HIMSELF AS THE SUPERVISOR. HE WAS NOTIFIED OF THE NATURE OF THE DOCUMENTS AND THUS SUBSERVED.

J. SALES
EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, CA 94102
(415) 552-9900

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

August 4, 1997 _____

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

BORCH'S IRON WORKS & WELDING
20 SOUTH AUTUMN
SAN JOSE, CA 95110

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILL 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 237988.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME:	DEPT./DIV.: / CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT; SECOND AMENDED COMPLAINT

2. a. Party served: PENINSULA FLOORS
   b. Person served: PATRICK MAHONEY, REGISTERED AGENT
   c. Address: 3737 CARDONA CIRCLE
      SAN RAMON, CA

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):* MS. MAHONEY, WIFE

      (1) (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on *(date)*: 7/27/97 (4) at (time): 3:06 P.M.

   d. **by causing** copies to be mailed to the address in item 2c.
      a declaration of mailing is attached

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 26
   c. on behalf of (*specify*): PENINSULA FLOORS
      under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   M. OLIVA

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
      (1) Employee or independent contractor.
      (2) Registration No.: 393
      (3) County: San Francisco

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

Date: August 4, 1997

Richard Oliva

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

PENINSULA FLOORS
3737 CARDONA CIRCLE
SAN RAMON, CA

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 237968.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	
PROOF OF SERVICE — HEARING DATE: — TIME:	DEPT./DIV.: — CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: MISSION DRYWALL OF SAN JOSE
   b. Person served: JOHN MENDEZ, OWNER
   c. Address: 14675 FOOTHILL
   SAN MARTIN, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 5:00 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 8
   c. on behalf of *(specify)*: MISSION DRYWALL OF SAN JOSE
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
J. SALES

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: July 31, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 238059.JM	(714) 252-9150 **ORIGINAL**
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY

AUG - 7 1997

Clerk of the Superior Court
By _____ DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: GONSALVES & SANTUCCI, INC., dba CONCO CEMENT CO.

   b. Person served: BARRY SILBERMON, VICE PRESIDENT

   c. Address: 5151 PORT CHICAGO HIGHWAY
   CONCORD, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 4:30 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 7
   c. on behalf of *(specify)*: GONSALVES & SANTUCCI, INC., dba CONCO CEMENT CO.
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.)*:
H. FATTAHI

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: July 31, 1997

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR (Name): PLAINTIFF Ref. No.: 238058.JM	(714) 252-9150 ORIGINAL	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		
PROOF OF SERVICE	HEARING DATE: / TIME: / DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the:
SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: SIERRA LUMBER
   b. Person served: ROGER BURCH, AUTHROIZED TO ACCEPT SERVICE OF PROCESS
   c. Address: 1711 SENTER RD.
   SAN JOSE, CA

3. I served the party in item 2
   b. **by leaving** the copies with or in the presence of:(*name and title or relationship to person indicated in item 2b):*
   VIVIAN HOUNSHELL, CONTRACT ADMINISTRATOR

   (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on *(date)*: 7/28/97 (4) at (time): 2:50 P.M.

   d. **by causing** copies to be mailed to the address in item 2c.
   a declaration of mailing is attached

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 6
   c. on behalf of (*specify*): SIERRA LUMBER
   under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
B. PONCURAK

EXPRESS NETWORK, INC.
451 Hayes Street
San Francisco, California 94102
(415) 552-9900

a. **Fee** for service: $

d. Registered California process server.
(1) Employee or independent contractor.
(2) Registration No.: 393
(3) County: San Francisco

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

Date: August 4, 1997

Ben Poncurak

PROOF OF MAILING

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action; my business address is c/o Express Network, Inc., 451 Hayes Street, 2nd Floor, San Francisco, California 94102; my business phone number is (415) 552-9900. Express Network, Inc., is a registered process serving company whose registration is in San Francisco County #393.

On July 28, 1997, I mailed true and correct copies of the following document(s):

SUMMONS ON SECOND AMENDED COMPLAINT; PRETRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE; SERVICE LIST; SECOND AMENDED COMPLAINT

to the office/residence of the addressed as follows:

SIERRA LUMBER
1711 SENTER RD.
SAN JOSE, CA

by mailing the copies to the person served, addressed as shown above, by first-class mail, postage prepaid, on July 28, 1997 from San Francisco, California.

Executed on July 31, 1997 San Francisco, California.

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

H. Peck, Process Manager

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 238057.JM	(714) 252-9150 ORIGINAL
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO	
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.	

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
AUG - 7 1997
Clerk of the Superior Court
By DEPUTY CLERK

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: FISK, FIRENZE, & MCLEAN

   b. Person served: DAVID FIRENZE

   c. Address: 10 HACIENDA DRIVE
   WOODSIDE, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 11:47 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 5
   c. on behalf of *(specify)*: FISK, FIRENZ & MCLEAN
   under: CCP 416.10 (corporation)

5. **Person Serving** *(name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: July 31, 1997

J. Sales

LAW OFFICES OF THOMAS MILLER 4695 Mac Arthur Court, Suite 1150 Newport Beach, California 92660 ATTORNEY FOR *(Name)*: PLAINTIFF Ref. No.: 238068.JM	(714) 252-9150 **ORIGINAL**	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG - 7 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN MATEO		
EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. vs THE ANDEN GROUP, et al.		

PROOF OF SERVICE	HEARING DATE:	TIME:	DEPT./DIV.:	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the: SUMMONS ON SECOND AMENDED COMPLAINT; PRE-TRIAL ORDER NO. 25; SUMMONS ON DOE AMENDMENT; PLAINTIFF'S DOE AMENDMENT TO COMPLAINT; PROOF OF SERVICE BY MAIL; SERVICE LIST; SECOND AMENDED COMPLAINT

2. a. Party served: C. APARICIO CEMENT CONTRACTOR

   b. Person served: ED BERGO, REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS

   c. Address: 506 PHELAN AVE.
   SAN JOSE, CA

3. I served the party in item 2
   a. **by personally delivering** the copies (1) on *(date)*: 7/28/97 (2) at *(Time)*: 2:25 P.M.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   b. as the person sued under the fictitious name of (specify): DOE 4
   c. on behalf of *(specify)*: C. APARICIO CEMENT CONTRACTOR
   under: CCP 416.10 (corporation)

5. **Person Serving** (*name, address, and telephone No.):*
   J. SALES

   EXPRESS NETWORK, INC.
   451 Hayes Street
   San Francisco, California 94102
   (415) 552-9900

   a. **Fee** for service: $

   d. Registered California process server.
   (1) Employee or independent contractor.
   (2) Registration No.: 393
   (3) County: San Francisco

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

Date: July 31, 1997

J. Sales

5074
William L. Nagle, SBN 59788
Special Master/Mediator
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-0500
(415) 579-0623 (Fax)

1997 AUG -4 P 1:12

FILED
CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 30 (Endorsed-Filed July 29, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 31, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

Proof of Service List

William L. Nagle, Esq. Special Master/Mediator 345 Lorton Avenue, Suite #204 Burlingame, CA 94010 (415) 579-0500 (415) 579-0623 (Fax)	SPECIAL MASTER
Michael B. Allen, Esq. Law Offices of Michael B. Allen 411 Borel Avenue, Suite #445 San Mateo, CA 94402 (415) 341-0800 (415) 341-1147 (Fax)	Plaintiff, Edgewater Isle HOA, Inc.
Thomas A. Miller, Esq. Law Offices of Thomas A. Miller 4695 Mac Arthur Court, Suite #1150 Newport Beach, CA 92660 (714) 252-9150 (714) 442-0646 (Fax)	Plaintiff, Edgewater Isle HOA, Inc. (in 7/97)
Marisa D'Amico, Esq. Bishop, Barry, Howe, Haney & Ryder Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111 (415) 421-8550 (415) 362-4730 (Fax)	The Anden Group, Esden Partners, MDG Associates, Ltd., ESR Corporation, TMD Corporation, and Miden Corporation
Alan H. Finkel, Esq. Zimmerman, Koomer & Connolly 10960 Wilshire Blvd., Suite #1225 Los Angeles, CA 90024 (310) 231-6565 (310) 231-6566 (Fax)	The Anden Group (personal counsel)
Alec M. Barinholtz, Esq. Ross, Dixon & Masback Five Park Plaza, Suite #1200 Irvine, CA 92614-8529 (714) 622-2700 (714) 622-2739 (Fax)	International Insurance Company (Anden Group)

Lewis K. Loss, Esq. Ross, Dixon & Masback 601 Pennsylvania Avenue, N.W. North Building Washington, D.C. 20004-2688 (202) (202) 662-2190 (Fax)	International Insurance Company (Anden Group)
Mr. Alan Freudenheim International Insurance Company 181 W. Madison Street, 26th Floor Chicago, IL 60602 (312) 849-5150 (312) 849-5293 (Fax)	International Insurance Company (Anden Group)
Thomas A. Foster, Esq. Marrone, Robinson, Frederick & Foster 111 N. 1st Street, Suite #300 Burbank, CA 91502 (818) 841-1144 (818) 841-0746 (Fax)	
A. Raymond Hammerick, III, Esq. Law Offices of A. Raymond Hammerick, III 10 Universal City Plaza, Suite #2055 Universal City, CA 91608 (818) 763-5295 (818) 763-2308 (Fax)	
Amy Dantzler, Esq. Quisenberry & Barbanel, LLP 2049 Century Park East, Suite #2200 Los Angeles, CA 90067 (310) 785-7966 (310) 785-0254 (Fax)	
John J. Carniato, Esq. Law Offices of John J. Carniato 3736 Mt. Diablo Blvd., Suite #300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (Fax)	O'Brien & Hicks, Inc., O'Brien & Hicks 1988 & Beyond, Ltd., and Gloria Development co., Inc.
Josh Shinnick, Esq. Hoge, Fenton, Jones & Appel, Inc. 60 S. Market Street San Jose, CA 95113 (408) 287-9501 (408) 287-2583 (Fax)	O'Brien & Hicks, Inc.

Anthony B. Varni, Esq.
Varni, Fraser, Hartwell & Rodgers
22771 Main Street
Hayward, CA 94543
(510) 886-5000
(510) 538-8797 (Fax)

O'Brien & Hicks, Inc.

Chester G. Moore, III, Esq.
Low, Ball & Lynch
10 Twin Dolphin Road, Suite #B-500
Redwood City, CA 94065
(415) 591-8822
(415) 591-8884 (Fax)

Alcal Roofing & Insulation

Philip Y. Kazan, Esq.
Russell, Kazan, Brenner & Mallett
343 Sansome Street, Suite #525
San Francisco, CA 94104
(415) 956-5841
(415) 956-0708 (Fax)

C. Aparicio Cement

Donald B. Fornasier, Esq.
Archer, McComas, Breslin, McMahon
& Chritton
2033 N. Main Street, Suite #800
Walnut Creek, CA 94596
(510) 930-6600
(510) 930-6620 (Fax)

C. Aparicio Cement

S. Mitchell Kaplan, Esq.
Gordon & Rees
275 Battery Street, 20th Floor
San Francisco, CA 94111
(415) 986-5900
(415) 986-8054 (Fax)

Daniel Smith Plastering, Inc.

Anthony J. DeMaria, Esq.
Filice & DeMaria
1130 Burnett Avenue
Building D, Suite H
Concord, CA 94520
(510) 676-5094
(510) 676-0548 (Fax)

Gonsalves & Santucci, Inc. dba
Conco Cement Company

S. Mitchell Kaplan, Esq.
Gordon & Rees
275 Battery Street, 20th Floor
San Francisco, CA 94111
(415) 986-5900
(415) 986-8054 (Fax)

Fisk, Firenze & McLean

Scott C. Finch, Esq. Larson & Burnham P.O. Box 119 Oakland, CA 94604 (510) 444-6800 (510) 835-6666 (Fax)	Hanson's Masonry, Inc. (in 7/96)
Mr. Michael Meehen, Esq. DPIC Companies, Inc. 100 California Street, Suite #1190 San Francisco, CA 94105 (415) 433-1676 (415) 788-6507 (Fax)	Ruth & Going, Inc. and Melvin Lee Associates
Donald L. Sullivan, Esq. Clapp, Moroney, Bellagamba, Davis & Vucinich 4400 Bohannon Drive, Suite #100 Menlo Park, CA 94025 (415) 327-1300 (415) 327-3707 (Fax)	Mission Drywall of San Jose and Silva Fence Company (in 5/96)
Kevin J. Tully, Esq. Greene, Chauvel, Descalso & Tully 901 Mariner's Island Blvd., Suite #400 San Mateo, CA 94404-1594 (415) 573-5900 (415) 573-9689 (Fax)	North Empire Construction and and Sacramento A-1 Door
Nancy A. McPherson, Esq. Holmes, Drevlow, Carmody, Schmidt & Nakano 180 Montgomery Street, Suite #2100 San Francisco, CA 94104 (415) 362-1422 (415) 362-7054 (Fax)	Sacramento A-1 Door
Helen B. Baumann, Esq. Law Office of Eugene L. Bass 495 Seaport Court, Suite #103 Redwood City, CA 94063 (415) 361-1199 (415) 369-4984 (Fax)	San Carlos Sheet Metal Works, Inc.
David N. Poll, Esq. Collins & Schlothauer 60 S. Market Street, Suite #1100 San Jose, CA 95113-2369 (408) 298-5161 (408) 297-5766 (Fax)	Silva Fence Company (in 5/96)

Karen Wentzel, Esq. Ritchie, Fisher, Whitman & Klein 1717 Embarcadero Road Palo Alto, CA 94303 (415) 857-1717 (415) 857-1288 (Fax)	Soil Foundation Systems (out 5/96)
Albert P. Blake, Esq. Roger, Scott & Helmer 900 Veterans Blvd., Suite #430 Redwood City, CA 94063 (415) 365-7700 (415) 0677 (Fax)	Tara Coatings
Norman La Force, Esq. Law Offices of F. Ross Adkins 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200 (415) 981-2097 (Fax)	Tara Coatings
Mr. Donald W. Simons, Jr., Esq. Frank Pinto Adjusters, Inc. 1504 Franklin Street, Suite #308 Oakland, CA 94612 (510) 834-1474 (510) 834-7032 (Fax) (510) 654-1425 (Hm Fax)	Courtesy Copy

J. MICHAEL HIGGINBOTHAM (SBN 61499)
LONG & LEVIT LLP
101 California Street, Suite 2300
San Francisco, CA 94111
Telephone: (415) 397-2222
Facsimile: (415) 397-6392

Attorneys for defendants and cross-defendants
MELVIN LEE & ASSOCIATES, INC. and
RUTH & GOING, INC.

FILED
SAN MATEO COUNTY
AUG - 1 1997
Clerk of the Superior Court
By M Mills
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	CASE NO. 388872 **NOTICE OF APPEARANCE**

TO ALL PARTIES HEREIN AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

Please take notice that MELVIN LEE & ASSOCIATES, INC. and RUTH & GOING, INC. hereby appear in the above-captioned matter and will be represented by the law offices of Long & Levit LLP, 101 California Street, Suite 2300, San Francisco, CA 94111; telephone number (415) 397-2222 and facsimile number (415) 397-6392; attention: J. Michael Higginbotham, Esq.

Melvin Lee & Associates, Inc. and Ruth & Going, Inc. appear on the Second Amended Complaint filed by the Edgewater Isle

388872
08-01-1997/10:21 AM
$364.00/03-54718

Homeowners Association and also appear on the cross-complaint filed by The Anden Group and hereby incorporate each of the affirmative defenses set forth in Exhibit A to the Special Master's Pre-Trial Order No. 1 in response to these pleadings and all other cross-complaints of all other parties.

Dated: July 30, 1997

LONG & LEVIT LLP

By: _____
J. MICHAEL HIGGINBOTHAM
Attorneys for defendants and cross-defendants MELVIN LEE & ASSOCIATES, INC. and RUTH & GOING, INC.

LONG & LEVIT LLP
101 CALIFORNIA STREET
SUITE 2300
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-2222

PROOF OF SERVICE BY MAIL - CCP § 1013a(3)

Re: **EDGEWATER ISLE HOMEOWNERS ASSOCIATION v. THE ANDEN GROUP, and Related Cross-Actions. Superior Court, San Mateo County Case No. 388872**

Rita Holm Jensen certifies and declares as follows:

I am over the age of 18 years and not a party to this action. My business address is 101 California Street, Suite 2300, San Francisco, California 94111, which is located in the county where the mailing described below took place.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 30, 1997, at my place of business at San Francisco, California, copies of the following document(s):

NOTICE OF APPEARANCE

was/were placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid, addressed to:

[see attached list]

and that envelope was placed for collection and mailing on that date following ordinary business practices.

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

Executed on July 30, 1997.

RITA HOLM JENSEN

LONG & LEVIT LLP
101 CALIFORNIA STREET
SUITE 2300
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-2222

SERVICE LIST

Re: **EDGEWATER ISLE HOMEOWNERS ASSOCIATION v. THE ANDEN GROUP, and Related Cross-Actions. Superior Court, San Mateo County Case No. 388872**

William L. Nagle
Special Master
345 Lorton Avenue, #204
Burlingame, CA 94010-4116
Tel: (415) 579-0500
Fax: (415) 579-0623

Law Offices of Thomas E. Miller
4695 MacArthur Court, #1150
Newport Beach, CA 92660
Tel: (714) 252-9150
Fax: (714) 442-0646
Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

Sandra L. Fulmer
Marisa D'Amico
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THE ANDEN GROUP

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3736 Mt. Diablo Blvd., #300
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Attorneys for defendants and cross-complainants
GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.

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60 South Market St., 14th fl.
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Anthony J. DeMaria
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1130 Burnett Ave.,
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Concord, CA 94520
Tel: (510) 676-5094
Fax: (510) 676-0548
Attorneys for cross-defendant
GONSALVES & SANTUCCI, INC. dba
CONCO CEMENT COMPANY

S. Mitchell Kaplan
Gordon & Rees
275 Battery Street, 20th fl.
San Francisco, CA 94111
Tel: (415) 986-5900
Fax: (415) 986-8054
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DANIEL SMITH PLASTERING, INC.

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Attorney at Law
981 Fremont Street
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Fax: (408) 292-1061
Attorneys for cross-defendant
SIERRA LUMBER

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100 Pringle Avenue, #510
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Attorneys for cross-defendant
SIERRA LUMBER

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Attorneys for cross-defendants
SACRAMENTO A-1 DOOR and
NORTH EMPIRE CONSTRUCTION

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Attorneys for cross-defendant
SACRAMENTO A-1 DOOR

Helen B. Baumann
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Fax: (415) 369-4984
Attorneys for cross-defendant
SAN CARLOS SHEET METAL WORKS, INC.

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Low, Ball & Lynch
10 Twin Dolphin Drive, #B-500
Redwood City, CA 94065
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Fax: (415) 591-8884
Attorneys for cross-defendant
ALCAL ROOFING & INSULATION

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Personal Counsel for
THE ANDEN GROUP

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Davis & Vucinich
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Menlo Park, CA 94025
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Attorneys for cross-defendant
MISSION DRYWALL OF SAN JOSE and
SILVA FENCE COMPANY

David N. Poll
Collins & Schlothauer
60 South Market Street, #1100
San Jose, CA 95113-2369
Tel: (408) 298-5161
Fax: (408) 297-5766
Co-Counsel for cross-defendant
SILVA FENCE COMPANY

Joseph H. Huber
Gassett, Perry & Frank
210 North Fourth Street, #400
San Jose, CA 95112
Tel: (408) 295-7034
Fax: (408) 295-5799
Attorneys for cross-defendant
CROWLEY COMPANY

Scott C. Finch
Larson & Burnham
Post Office Box 119
Oakland, CA 94604
Tel: (510) 444-6800
Fax: (510) 835-6666
Attorneys for cross-defendant
HANSON'S MASONRY, INC.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402	(415) 341-080[redacted] 00074075-05	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By DEPUTY CLERK
ATTORNEY FOR (Name):	Ref. No. or File No.	

Insert name of court and name of judicial district branch court, if any.
SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT
REDWOOD CITY, CA 94063-0000

SHORT TITLE OF CASE
Edgewater Isle Homeowners Ass. vs The Anden Group

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party Served: Silva Fence Company
   b. Person Served: Theresa Silva
      Title: Registered Agent
   c. Address: 400 Reed Street
      Santa Clara, CA 95050
3. I served the party named in item 2
   b. by leaving the copies with or in the presence of

      Mr. Gill, Person in Charge

      (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on: 07/23/97
      (4) at: 11:45am
   d. by causing copies to be mailed. A declaration of mailing is attached.
4. The "Notice to the Person Served" (on the summons) was completed as follows:
   c. [xx] on behalf of:
      Silva Fence Company
      [xx] other: a business organization form unknown

J. PINK
REGISTERED INDEPENDENT CONTRACTOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $38.50

Registration No. 180
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-080[redacted] 00074075-05 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF MAILING	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

I completed substituted service by serving the:

Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

By mailing by first class mail, postage pre-paid, to the address where the documents were served. The envelope mailed to the person served was addressed as follows:

Silva Fence Company
ATTENTION: Theresa Silva
TITLE: Registered Agent
400 Reed Street
Santa Clara, CA 95050

Date of Mailing: 07/25/97 at: Redwood City, California

Manner of service:
Substituted service, as described in the proof of service attached.

CARLENE SCARONI
Employee of
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $38.50

Registration No.: 20
County: SAN MATEO
Registered California Process Server

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/28/97
Date:

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-080[redacted] Invoice # 00074075-13 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons of Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party Served: Gonsalves & Santucci, Inc., dba Conco Cement Co.
   b. Person Served: Steven A. Gonsalves
   Title: President
   c. Address: 5151 Port Chicago Hwy
   Concord, CA 94520
3. I served the party named in item 2
   b. by leaving the copies with or in the presence of

   Holly Vertuccelli, Person in Charge
   (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on: 07/23/97
   (4) at: 02:00pm
   d. by causing copies to be mailed. A declaration of mailing is attached.
4. The "Notice to the Person Served" (on the summons) was completed as follows:
   c. [xx] on behalf of:
   Gonsalves & Santucci, Inc., dba Conco Cement Co.
   [xx] CCP 416.10 (corporation)

JOHN RADEBOLD
REGISTERED INDEPENDENT CONTRACTOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $46.25

Registration No. 116
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN	(415) 341-080[redacted]	
411 Borel Avenue, Suite 445 San Mateo, CA 94402	00074075-03	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
ATTORNEY FOR (Name):	Ref. No. or File No.	
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party served: Sierra Lumber
   by serving: Roger A. Burch, Registered Agent
   b. Person Served: Austin L. Vanderhoof
   Executive Vice President/A.A.
   c. Address: 2 West Santa Clara St., 9th Floor
   San Jose, CA 95113

3. I served the party named in item 2
   a. by personally delivering the copies
   (1) on 07/23/97
   (2) at: 12:25pm

4. The "Notice to the Person Served" (on the summons) was completed:
   c. [xx] on behalf of:
   Sierra Lumber
   [xx] other: a business organization form unknown

J. PINK
REGISTERED INDEPENDENT CONTRACTOR

Fee for Service: $38.50

Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Registration No. 180
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

▶ [signature] (SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN	(415) 341-080[redacted]	FILED SAN MATEO COUNTY JUL 31 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
411 Borel Avenue, Suite 445 San Mateo, CA 94402	00074075-12 Ref. No. or File No.	
ATTORNEY FOR (Name):		
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
PROOF OF MAILING				388872

I completed substituted service by serving the:

Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

By mailing by first class mail, postage pre-paid, to the address where the documents were served. The envelope mailed to the person served was addressed as follows:

Melvin Lee Associates
ATTENTION: Melvin Lee
TITLE: President
1650 Pacific Ave.
San Francisco, CA 94110

Date of Mailing: 07/25/97 at: Redwood City, California

Manner of service:
Substituted service, as described in the proof of service attached.

CARLENE SCARONI
Employee of
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service:

Registration No.: 20
County: SAN MATEO
Registered California Process Server

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted]. ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-08[redacted] 00074075-12 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK

Insert name of court and name of judicial district branch court, if any.
SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT
REDWOOD CITY, CA 94063-0000

SHORT TITLE OF CASE
Edgewater Isle Homeowners Ass. vs The Anden Group

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party Served: Melvin Lee Associates
   b. Person Served: Melvin Lee
      Title: President
   c. Address: 1650 Pacific Ave.
      San Francisco, CA 94110
3. I served the party named in item 2
   b. by leaving the copies with or in the presence of

      Jordan Steinberg, Person in Charge

      (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on: 07/23/97
      (4) at: 11:40am
   d. by causing copies to be mailed. A declaration of mailing is attached.
4. The "Notice to the Person Served" (on the summons) was completed as follows:
   c. [xx] on behalf of:
      Melvin Lee Associates
      [xx] other: a business organization form unknown

JOHN RADEBOLD
REGISTERED INDEPENDENT CONTRACTOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service:

Registration No. 116
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-080[redacted] 00074075-11 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF MAILING	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
				388872

I completed substituted service by serving the:

Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

By mailing by first class mail, postage pre-paid, to the address where the documents were served. The envelope mailed to the person served was addressed as follows:

Tara Coatings
ATTENTION: Kevin J. Greely
TITLE: President
2281-B Via De Mercados
Concord, CA 94520

Date of Mailing: 07/25/97 at: Redwood City, California

Manner of service:
Substituted service, as described in the proof of service attached.

CARLENE SCARONI
Employee of
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $57.75

Registration No.: 20
County: SAN MATEO
Registered California Process Server

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted]. ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-080[redacted] Invoice # 00074075-11 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK

Insert name of court and name of judicial district branch court, if any.

SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT
REDWOOD CITY, CA 94063-0000

SHORT TITLE OF CASE

Edgewater Isle Homeowners Ass. vs The Anden Group

	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
PROOF OF SERVICE				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party Served: Tara Coatings
   b. Person Served: Kevin J. Greely
      Title: President
   c. Address: 2281-B Via De Mercados
      Concord, CA 94520
3. I served the party named in item 2
   b. by leaving the copies with or in the presence of

      Sandra Moriarty, Person in Charge

      (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
      (3) on: 07/23/97
      (4) at: 01:30pm
   d. by causing copies to be mailed. A declaration of mailing is attached.
4. The "Notice to the Person Served" (on the summons) was completed as follows:
   c. [xx] on behalf of:
      Tara Coatings
      [xx] other: a business organization form unknown

JOHN RADEBOLD
REGISTERED INDEPENDENT CONTRACTOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $57.75

Registration No. 116
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-080[redacted] 00074075-13 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF MAILING	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

I completed substituted service by serving the:

Summons of Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

By mailing by first class mail, postage pre-paid, to the address where the documents were served. The envelope mailed to the person served was addressed as follows:

Gonsalves & Santucci, Inc., dba Conco Cement Co.
ATTENTION: Steven A. Gonsalves
TITLE: President
5151 Port Chicago Hwy
Concord, CA 94520

Date of Mailing: 07/25/97 at: Redwood City, California

Manner of service:
Substituted service, as described in the proof of service attached.

CARLENE SCARONI
Employee of
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $46.25

Registration No.: 20
County: SAN MATEO
Registered California Process Server

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address). LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	TELEPHONE NO. (415) 341-080[redacted] 00074075-06 Ref. No. or File No.	FOR COURT USE ONLY FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party served: Soil Foundation Systems
   b. Person Served: K C Sohn
      Registered Agent
   c. Address: 2680 Bayshore Pkwy, #411
      Mountian View, CA 94043

3. I served the party named in item 2
   a. by personally delivering the copies
      (1) on 07/23/97
      (2) at: 11:25am

4. The "Notice to the Person Served" (on the summons) was completed:
   c. [xx] on behalf of:
      Soil Foundation Systems
      [xx] other: a business organization form unknown

J. PINK
REGISTERED INDEPENDENT CONTRACTOR

Fee for Service: $38.50

Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Registration No. 180
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402	(415) 341-080[redacted] 00074075-07	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
ATTORNEY FOR (Name):	Ref. No. or File No.	
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party served: C. Aparacio Cement Contractor
   b. Person Served: Edward T. Bergo
      Registered Agent
   c. Address: 506 Phelan Ave.
      San Jose, CA 95112

3. I served the party named in item 2
   a. by personally delivering the copies
      (1) on 07/23/97
      (2) at: 03:10pm

4. The "Notice to the Person Served" (on the summons) was completed:
   c. [xx] on behalf of:
      C. Aparicio Cement Contractor
      [xx] other: a business organization form unknown

J. PINK
REGISTERED INDEPENDENT CONTRACTOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $38.50

Registration No. 180
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

▶ [signature] (SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-080 Invoice # 00074075-10 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 31 1997 Clerk of the Superior Court By (DEPUTY CLERK)
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party Served: Daniel Smith Plastering, Inc.
   b. Person Served: Jane Doe
      Title: Employee
   c. Address: 4208 Chaboya Road
      San Jose, CA

3. I served the party named in item 2
   b. by leaving the copies with or in the presence of

      Jane Doe, Employee

   (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
   (3) on: 07/23/97
   (4) at: 01:02pm
   d. by causing copies to be mailed. A declaration of mailing is attached.

4. The "Notice to the Person Served" (on the summons) was completed as follows:
   c. [xx] on behalf of:
      Daniel Smith Plastering, Inc.
      [xx] CCP 416.10 (corporation)

PAT CORBIN
REGISTERED INDEPENDENT CONTRACATOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $54.50

Registration No. 336
County: Santa Clara
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL B. ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name):	(415) 341-0800 Invoice # 00074075-10 Ref. No. or File No.	FILED SAN MATEO COUNTY JUL 31 1997 Clerk of the Superior Court By _____ DEPUTY CLERK

Insert name of court and name of judicial district branch court, if any.

SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT
REDWOOD CITY, CA 94063-0000

SHORT TITLE OF CASE

Edgewater Isle Homeowners Ass. vs The Anden Group

	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
DECL OF DILIGENCE				388872

I received the within process on 07/22/97 and after due and diligent effort have been unable to effect personal service on the within named party. Details of some of the necessary effort in effecting service are enumerated below. Costs for diligence in effecting service are recoverable pursuant to CCP 1033.5(b).

Party Served: Daniel Smith Plastering, Inc.

Home Address: n/a

Business Address: 4208 Chaboya Road
San Jose, CA

07/23/97 01:02pm Substituted service on individual by leaving with:
Jane Doe, Employee
NOTE: Drop served at Security Gate, refused to let me in to serve in person. Notified person on intercom, I was leaving Legal Documents at the gate

PAT CORBIN
REGISTERED INDEPENDENT CONTRACATOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $54.50

Registration No. 336
County: Santa Clara
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted]. ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402	(415) 341-08[redacted] 00074075-10	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
ATTORNEY FOR (Name):	Ref. No. or File No.	
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF MAILING	DATE:	TIME:	DEPT./DIV.	CASE NUMBER: 388872

I completed substituted service by serving the:
Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

By mailing by first class mail, postage pre-paid, to the address where the documents were served. The envelope mailed to the person served was addressed as follows:

Daniel Smith Plastering, Inc.
4208 Chaboya Road
San Jose, CA

Date of Mailing: 07/25/97

Place of Mailing: Redwood City, CA

Manner of Service:
Substituted service, as described in the proof of service attached.

CARLENE SCARONI
EMPLOYEE OF
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $54.50

Registration No.: 20
County: SAN MATEO
Registered California Process Server

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

07/28/97
Date:

[signature]
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).	TELEPHONE NO.	FOR COURT USE ONLY
LAW OFFICES OF MICHAEL [redacted] ALLEN 411 Borel Avenue, Suite 445 San Mateo, CA 94402	(415) 341-080[redacted] 00074075-04	FILED SAN MATEO COUNTY JUL 3 1 1997 Clerk of the Superior Court By [signature] DEPUTY CLERK
ATTORNEY FOR (Name):	Ref. No. or File No.	
Insert name of court and name of judicial district branch court, if any. SAN MATEO SUPERIOR COURT, SAN MATEO DISTRICT REDWOOD CITY, CA 94063-0000		
SHORT TITLE OF CASE Edgewater Isle Homeowners Ass. vs The Anden Group		

PROOF OF SERVICE	DATE:	TIME:	DEPT./DIV.	CASE NUMBER:
				388872

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the:

   Summons on Second Amended Complaint; Second Amended Complaint; Amendment to Complaint

2. a. Party served: Ruth & Going, Inc.
   by serving: Robert A. Smith, Registered Agent
   b. Person Served: Shawn Porter
   Authorized Agent
   c. Address: 1630 Zanker Road
   San Jose, CA 95112

3. I served the party named in item 2
   a. by personally delivering the copies
   (1) on 07/23/97
   (2) at: 03:36pm

4. The "Notice to the Person Served" (on the summons) was completed:
   c. [xx] on behalf of:
   Ruth & Going, Inc.
   [xx] CCP 416.10 (corporation)

J. PINK
REGISTERED INDEPENDENT CONTRACTOR
Swift Attorney Service
Process & Courier Service, Legal Photocopy and Investigations
Lic. #AA011368
654 BAIR ISLAND RD., SUITE 300 P.O. BOX 5324
REDWOOD CITY, CA 94063
(415) 364-9612 FAX (415) 364-3305

Fee for Service: $38.50

Registration No. 180
County: San Mateo
Registered California Process Server.

6. [X] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 07/28/97

[signature]
(SIGNATURE)

HECI
ELECTRICAL CONTRACTORS

1195 North Fifth Street
San Jose, California 95112
408-286-8625 Fax 408-286-0953

JULY 28, 1997

THOMAS E. MILLER, ESQ.
4695 MAC ARTHUR COURT, SUITE 1150
NEWPORT BEACH, CA 92660

RECEIVED
JUL 31 1997
CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

11-13 HSC

RE: EDGEWATER ISLE HOMEOWNERS ASSOCIATION VS. THE ANDEN GROUP, ET AL.
CASE NO. 388872

GENTLEMEN;

WE ARE IN RECEIPT OF A SUMMONS ADDRESSED TO HOWARD ELECTRIC.

PLEASE BE ADVISED THAT **HECI** WAS NEVER RELATED TO HOWARD ELECTRIC IN ANY WAY SHAPE OR FORM.

THE PRINCIPALS OF **HECI** WERE EMPLOYEES AT ONE TIME OF HOWARD ELECTRIC, INC. WHICH, I UNDERSTAND, IS STILL A CALIFORNIA CORPORATION.

IN ADDITION TO THE ABOVE, BE ADVISED THAT **HECI** ONLY DID ONE PROJECT FOR O'BRIEN & HICKS IN SAN JOSE, AND NEVER HAS DONE A SUBDIVISION IN SAN MATEO.

TRUSTING YOU WILL REMOVE **HECI** FROM YOUR DOE 47 LIST.

SINCERELY,

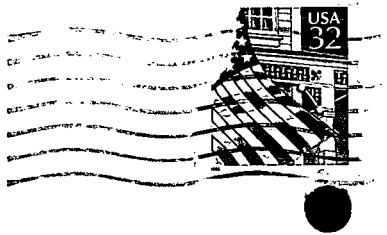
HECI

DON BEUKERS

CC. SUPERIOR COURT
401 MARSHALL ST.
REDWOOD CITY, CA 94063-1636

HECI
ELECTRICAL CONTRACTORS

1195 North Fifth Street
San Jose, California 95112



SUPERIOR COURT
401 MARSHALL ST.
REDWOOD CITY, CA 94063-1636

94063>1636 18

MICHAEL B. ALLEN - CSB #81550
DANIEL P. BEAVER - CSB#125303
LAW OFFICES OF MICHAEL B. ALLEN
A Professional Corporation
411 Borel Avenue, Suite 445
San Mateo, California 94402
Telephone: (415) 341-0800
Facsimile: (415) 341-1147

FILED
SAN MATEO COUNTY
JUL 29 1997
Clerk of the Superior Court
By Eugene Allen
DEPUTY CLERK

11-13 MSL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	NO. 388872 **PRE-TRIAL ORDER NO. 30**

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that Plaintiff's counsel is authorized to distribute from the Edgewater Isle Homeowners Association trust account to the Edgewater Isle Homeowners Association the $35,000.00 received in settlement from CROWLEY COMPANY along with all interest accrued on that $35,000.00 to and including the date of distribution.

/ / /

/ / /

APPROVED AND RECOMMENDED:

Dated: 7/17/97

WILLIAM L. NAGLE, SPECIAL MASTER

IT IS ORDERED:

Dated: 7-28-97

JUDGE OF THE SUPERIOR COURT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address):	TELEPHONE	FOR COURT USE ONLY
Daniel P. Beaver, Esq., SBN 125303 LAW OFFICES OF MICHAEL B. ALLEN, APC 411 Borel Avenue, Suite 445 San Mateo, CA 94402 ATTORNEY FOR (Name): Plaintiff EDGEWATER ISLE HOMEOWNERS ASSOCIATION	(415) 341-08[redacted]	FILED SAN MATEO COUNTY JUN 28 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
NAME OF COURT: SUPERIOR COURT OF CALIFORNIA STREET ADDRESS: COUNTY OF SAN MATEO MAILING ADDRESS: 401 Marshall Street CITY AND ZIP CODE: Redwood City, CA 94063 BRANCH NAME:		
CASE NAME: EDGEWATER ISLE HOMEOWNERS ASSOCIATION. vs. THE ANDEN GROUP, et al.		
SUBSTITUTION OF ATTORNEY—CIVIL **(Without Court Order)**		CASE NUMBER: 388872

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (name): EDGEWATER ISLE HOMEOWNERS makes the following substitution:

1. **Former legal representative** ☐ Party represented self ☒ Attorney (name): ASSOCIATION
2. **New legal representative** ☐ Party is representing self* ☒ Attorney LAW OFFICES OF MICHAEL B. ALLEN, APC
   a. Name: LAW OFFICES OF THOMAS E. MILLER b. State Bar No. (if applicable):
   c. Address (number, street, city, ZIP, and law firm name, if applicable):
   4695 Mac Arthur Court, Suite 1150
   Newport Beach, CA 92660
   d. Telephone No. (include area code): (714) 252-9150
3. The party making this substitution is a ☒ plaintiff ☐ defendant ☐ petitioner ☐ respondent ☐ other (specify):

***NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES**

- Guardian
- Conservator
- Trustee
- Personal representative
- Probate fiduciary
- Corporation
- Guardian ad litem
- Unincorporated association

If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

NOTICE TO PARTIES WITHOUT ATTORNEYS

A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4. I consent to this substitution.
   Date: 7/25/97
   EDGEWATER ISLE HOMEOWNERS ASSOCIATION BY _____
   (TYPE OR PRINT NAME)
   ▶ _____
   (SIGNATURE OF PARTY)

5. ☒ I consent to this substitution.
   Date: July 25, 1997
   DANIEL P. BEAVER, ESQ.
   (TYPE OR PRINT NAME)
   LAW OFFICES OF MICHAEL B. ALLEN
   A PROFESSIONAL CORPORATION
   ▶ _____
   (SIGNATURE OF FORMER ATTORNEY)

6. ☒ I accept this substitution.
   Date: 7/25/97
   THOMAS E. MILLER, ESQ.
   (TYPE OR PRINT NAME)
   LAW OFFICES OF THOMAS E. MILLER
   ▶ _____
   (SIGNATURE OF NEW ATTORNEY)

(See reverse for proof of service by mail)

CASE NAME:	CASE NUMBER:
EDGEWATER ISLE V. THE ANDEN GROUP	388872

PROOF OF SERVICE BY MAIL
Substitution of Attorney—Civil

Instructions: *After having all parties served by mail with the Substitution of Attorney—Civil, have the person who mailed the document complete this Proof of Service by Mail. An unsigned copy of the Proof of Service by Mail should be completed and served with the document. Give the Substitution of Attorney—Civil and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.*

1. I am over the age of 18 and **not a party to this cause.** I am a resident of or employed in the county where the mailing occurred. My residence or business address is *(specify)*:

2. I served the Substitution of Attorney—Civil by enclosing a true copy in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid.

   (1) Date of mailing: 7/25/97 (2) Place of mailing *(city and state)*: NEWPORT BEACH, CALIFORNIA

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

Date: 7/25/97

WILKES R. MORGAN
(TYPE OR PRINT NAME)

▶ Wilkes R Morgan
(SIGNATURE)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

4. a. Name of person served:
   b. Address *(number, street, city, and ZIP)*:

   c. Name of person served:
   d. Address *(number, street, city, and ZIP)*:

   e. Name of person served:
   f. Address *(number, street, city, and ZIP)*:

   g. Name of person served:
   h. Address *(number, street, city, and ZIP)*:

   i. Name of person served:
   j. Address *(number, street, city, and ZIP)*:

☒ List of names and addresses continued in attachment.

Edgewater Isle Hom[redacted]ners Association v. The Anden C[redacted], et al.

San Mateo Superior Court Case No. 388872

SERVICE LIST

William L. Nagle 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116 (415) 579-0500 (415) 579-0623 (FAX) **SPECIAL MASTER**	Michael Meehen, Esq. **DPIC Companies, Inc.** 100 California Street, Suite 1190 San Francisco, CA 94105 (415) 433-1676 (415) 788-6507 (FAX) Cross-Defendants **MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.**
Sandra L. Fulmer Marisa D'Amico **Bishop, Barry, Howe, Haney & Ryder** A Professional Corporation Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111-3333 (415) 421-8550 (415) 362-4730 (FAX) Defendants and Cross-Complainants **THE ANDEN GROUP**	Donald B. Fornasier **Archer, McComas, Breslin, McMahon & Chritton** Post Office Box 8035 Walnut Creek, CA 94596 (510) 930-6600 (510) 930-6620 (FAX) Cross-Defendant **APRICIO CEMENT**
Thorsten J. Pray **Law Offices of John J. Carniato** 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (FAX) Defendants and Cross-Complainants **GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.**	Anthony J. DeMaria **Felice & DeMaria** 1130 Burnett Ave., Bld. D, Suite H Concord, CA 94520 (510) 676-5094 (510) 676-0548 (FAX) Cross-Defendant **GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY**
John Shinnick **Hoge, Fenton, Jones & Appel** 60 South Market Street, 14th Floor San Jose, CA 95113 (408) 287-9501 (408) 287-2583 (FAX) Defendant **O'BRIEN & HICKS, INC.**	S. Mitchell Kaplan **Gordon & Rees** 275 Battery Street, 20th Floor San Francisco, CA 94111 (415) 986-5900 (415) 986-8054 (FAX) Cross-Defendant **FISK, FIRENZE & McLEAN and DANIEL SMITH PLASTERING, INC.**
Albert Blake **Roger, Scott & Helmer** 900 Veterans Blvd., Suite 430 Redwood City, CA 94063 (415) 365-7700 (415) 365-0677 (FAX) Cross-Defendant **TARA COATINGS**	Joe Thompson Attorney at Law 981 Fremont Street Santa Clara, CA 95050 (408) 984-8555 (408) 292-1061 (FAX) Cross-Defendant **SIERRA LUMBER**

Norman La Force **Law Offices of F. Ross Adkins** 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200 (415) 981-2097 (FAX) Co-Counsel Cross-Defendant **TARA COATINGS**	Howard L. Churchill **Schofield & Schiller** 100 Pringle Avenue, #510 Walnut Creek, CA 94596 (510) 934-3600 (510) 934-2257 (FAX) Cross-Defendant **SIERRA LUMBER**
Kevin J. Tully **Greene, Chauvel & Descalso** 902 Mariners Island Blvd., Suite 400 San Mateo, CA 94404-1594 (415) 573-9500 (415) 573-9689 (FAX) Cross-Defendants **SACRAMENTO A-1 DOOR and NORTH EMPIRE CONSTRUCTION**	Donald L. Sullivan **Clapp, Moroney, Bellagamba, Davis & Vucinich** 4400 Bohannon Drive, Suite 100 Menlo Park, CA 94025 (415) 327-1300 (415) 327-3707 (FAX) Cross-Defendant **MISSION DRYWALL OF SAN JOSE and SILVA FENCE COMPANY**
Nancy A. McPherson **Holmes, Drevlow, Carmody, Schmidt & Nakano** 180 Montgomery Street, Suite 2100 San Francisco, CA 94104 (415) 362-1422 (415) 362-7054 (FAX) Co-Counsel for Cross-Defendant **SACRAMENTO A-1 DOOR**	David N. Poll **Collins & Schlotheuer** 60 South Market Street, Suite 1100 San Jose, CA 95113-2369 (408) 298-5161 (408) 297-5766 (FAX) Co-Counsel for Cross-Defendant **SILVA FENCE COMPANY**
Helen B. Baumann **Law Offices of Eugene L. Bass** 495 Seaport Court, Suite 103 Redwood City, CA 94063 (415) 361-1199 (415) 369-4984 (FAX) Cross-Defendant **SAN CARLOS SHEET METAL WORKS, INC.**	Joseph H. Huber **Gassett, Perry & Frank** 210 North Fourth Street, Suite 400 San Jose, CA 95112 (408) 295-7034 (408) 295-5799 (FAX) Cross-Defendant **CROWLEY COMPANY**
Johnathan Margolis **Low, Ball & Lynch** 10 Twin Dolphin Drive, Suite B-500 Redwood City, CA 94065 (415) 591-8822 (415) 591-8884 (FAX) Cross-Defendant **ALCAL ROOFING & INSULATION**	Scott C. Finch **Larson & Burnham** Post Office Box 119 Oakland, CA 94604 (510) 444-6800 (510) 835-6666 (FAX) Cross-Defendant **HANSON'S MASONRY, INC.**
Alan H. Finkel **Proskauer, Rose, Goetz & Mendelsohn** 2121 Avenue of the Stars, Suite 2700 Los Angeles, CA 90067-5010 (310) 284-5650 (310) 557-2193 (FAX) (Personal Counsel) **THE ANDEN GROUP**	

LAW OFFICES OF THOMAS E. MILLER
Thomas E. Miller / Bar #057821
4695 MacArthur Court, Suite 1150
Newport Beach, CA 92660
(714) 252-9150 FAX (714) 442-0646

Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

FILED
SAN MATEO COUNTY
JUN 25 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	CASE NO. 388872 **PLAINTIFF'S DOE AMENDMENT TO COMPLAINT**

TO ALL PARTIES HEREIN AND TO THEIR ATTORNEYS OF RECORD:

Upon filing the Complaint herein, Plaintiff, EDGEWATER HOMEOWNERS ASSOCIATION, being ignorant of the true names of the defendants, and subsequently having discovered the true names of said defendants, hereby amends its Complaint by inserting the true names in place and instead of such fictitious names wherever they appear in the operative Amended Complaint relating to allegations of negligence and negligence per se as follows:

DOE 14 - CORBIN/YAMAFUJI & PARTNERS aka CYP, INC.

DOE 15 - WOODCRAFT CABINETS

DOE 16 - NORTH EMPIRE CONSTRUCTION

DOE 17 - CONCO CEMENT COMPANY

DOE 18 - T & D TILE

DOE 19 - CROWN PLASTICS

DOE 20 - SACRAMENTO A-1 DOOR

DOE 21 - ACME INDUSTRIES

DOE 22 - ASSOCIATED LIGHTING FIXTURE COMPANY

DOE 23 - M & H ELECTRIC

DOE 24 - HARRIS FENCE

DOE 25 - BORCHERS BROS.

DOE 26 - PENINSULA FLOORS

DOE 27 - BENNETT FLOORS

DOE 28 - FRAMES WORK CONNECTION

DOE 29 - CERTIFIED PRODUCTS

DOE 30 - B. L. COHEN LANDSCAPE, INC.

DOE 31 - HANSON'S MASONRY

DOE 32 - TECHNIBUILDERS IRON, INC.

DOE 33 - CARLOS RODRIGUEZ PAINTING

DOE 34 - CROWLEY PLUMBING

DOE 35 - ASH ROOFING

DOE 36 - A. J. SULLIVAN COMPANY

DOE 37 - CELL-CRETE

DOE 38 - MJR CONSULTING ENGINEERS

DOE 39 - EDWARD L. PACK ASSOCIATES, INC.

DOE 40 - TJKM

DOE 41 - PACIFIC ENGINEERING

DOE 42 - PIOMBO-FISK, FIRENZE, McLEAN

DOE 43 - CHRISP COMPANY

DOE 44 - R.D. MOORE CONSTRUCTION COMPANY

DOE 45 - SIERRA PRECAST

DOE 46 - M & H ELECTRIC

DOE 47 - HOWARD ELECTRIC

DOE 48 - CONTINENTAL POOLS

DOE 49 - MJB PIPELINE

DOE 50 - PACIFIC LINING COMPANY, INC.

Dated: 7-24-97

THE LAW OFFICES OF THOMAS E. MILLER

THOMAS E. MILLER
Attorney for Plaintiff,
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

PROOF OF SERVICE
[C.C.P. Section 1013A(3)]

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is: 4695 MacArthur Court, Suite 1150, Newport Beach, California 92660.

On July 24, 1997, I served the foregoing document described as **PLAINTIFF'S DOE AMENDMENT TO COMPLAINT** on the other parties in this action, namely:

SEE ATTACHED SERVICE LIST

X **BY MAIL** - I placed a true copy in a sealed envelope addressed as indicated above. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Newport Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

___ **BY TELECOPIER** - I personally sent to the addressees' telecopier numbers attached hereto a true copy of the above-described document via facsimile transmission. Each transmission was reported as complete and without error. Copies of each transmission report are attached to this proof of service. Each report was properly issued by the transmitting facsimile machine.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 24, 1997 at Newport Beach, California.

Tamara Thweatt

TAMARA THWEATT

Edgewater Isle Homeowners Association v. The Anden Group, et al.

San Mateo Superior Court Case No. 388872

SERVICE LIST

William L. Nagle 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116 (415) 579-0500 (415) 579-0623 (FAX) **SPECIAL MASTER**	Michael Meehen, Esq. **DPIC Companies, Inc.** 100 California Street, Suite 1190 San Francisco, CA 94105 (415) 433-1676 (415) 788-6507 (FAX) Cross-Defendants **MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.**
Sandra L. Fulmer Marisa D'Amico **Bishop, Barry, Howe, Haney & Ryder** A Professional Corporation Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111-3333 (415) 421-8550 (415) 362-4730 (FAX) Defendants and Cross-Complainants **THE ANDEN GROUP**	Donald B. Fornasier **Archer, McComas, Breslin, McMahon & Chritton** Post Office Box 8035 Walnut Creek, CA 94596 (510) 930-6600 (510) 930-6620 (FAX) Cross-Defendant **APRICIO CEMENT**
Thorsten J. Pray **Law Offices of John J. Carniato** 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (FAX) Defendants and Cross-Complainants **GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.**	Anthony J. DeMaria **Felice & DeMaria** 1130 Burnett Ave., Bld. D, Suite H Concord, CA 94520 (510) 676-5094 (510) 676-0548 (FAX) Cross-Defendant **GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY**
John Shinnick **Hoge, Fenton, Jones & Appel** 60 South Market Street, 14th Floor San Jose, CA 95113 (408) 287-9501 (408) 287-2583 (FAX) Defendant **O'BRIEN & HICKS, INC.**	S. Mitchell Kaplan **Gordon & Rees** 275 Battery Street, 20th Floor San Francisco, CA 94111 (415) 986-5900 (415) 986-8054 (FAX) Cross-Defendant **FISK, FIRENZE & McLEAN and DANIEL SMITH PLASTERING, INC.**
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Norman La Force **Law Offices of F. Ross Adkins** 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200 (415) 981-2097 (FAX) Co-Counsel Cross-Defendant **TARA COATINGS**	Howard L. Churchill **Schofield & Schiller** 100 Pringle Avenue, #510 Walnut Creek, CA 94596 (510) 934-3600 (510) 934-2257 (FAX) Cross-Defendant **SIERRA LUMBER**
Kevin J. Tully **Greene, Chauvel & Descalso** 902 Mariners Island Blvd., Suite 400 San Mateo, CA 94404-1594 (415) 573-9500 (415) 573-9689 (FAX) Cross-Defendants **SACRAMENTO A-1 DOOR and NORTH EMPIRE CONSTRUCTION**	Donald L. Sullivan **Clapp, Moroney, Bellagamba, Davis & Vucinich** 4400 Bohannon Drive, Suite 100 Menlo Park, CA 94025 (415) 327-1300 (415) 327-3707 (FAX) Cross-Defendant **MISSION DRYWALL OF SAN JOSE and SILVA FENCE COMPANY**
Nancy A. McPherson **Holmes, Drevlow, Carmody, Schmidt & Nakano** 180 Montgomery Street, Suite 2100 San Francisco, CA 94104 (415) 362-1422 (415) 362-7054 (FAX) Co-Counsel for Cross-Defendant **SACRAMENTO A-1 DOOR**	David N. Poll **Collins & Schlothauer** 60 South Market Street, Suite 1100 San Jose, CA 95113-2369 (408) 298-5161 (408) 297-5766 (FAX) Co-Counsel for Cross-Defendant **SILVA FENCE COMPANY**
Helen B. Baumann **Law Offices of Eugene L. Bass** 495 Seaport Court, Suite 103 Redwood City, CA 94063 (415) 361-1199 (415) 369-4984 (FAX) Cross-Defendant **SAN CARLOS SHEET METAL WORKS, INC.**	Joseph H. Huber **Gassett, Perry & Frank** 210 North Fourth Street, Suite 400 San Jose, CA 95112 (408) 295-7034 (408) 295-5799 (FAX) Cross-Defendant **CROWLEY COMPANY**
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Alan H. Finkel **Proskauer, Rose, Goetz & Mendelsohn** 2121 Avenue of the Stars, Suite 2700 Los Angeles, CA 90067-5010 (310) 284-5650 (310) 557-2193 (FAX) (Personal Counsel) **THE ANDEN GROUP**	

WILLIAM L. NAGLE, SBN 59788
Special Master, Mediator
345 Lorton Avenue, Suite 204
Burlingame, California 94010
(415) 579-0500
(415) 579-0623 (FAX)

FILED
SAN MATEO COUNTY
JUL 25 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION,

Plaintiff,

vs.

THE ANDEN GROUP, et al.,

Defendants.

AND RELATED CROSS-ACTIONS.

CASE NO. 388872

PRE-TRIAL ORDER NO. 31

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that plaintiff may file an Amendment to Complaint, naming cross-defendants in this action not previously named as defendants, as DOE defendants to the operative Amended Complaint as follows:

DOE 14 - CORBIN/YAMAFUJI & PARTNERS aka CYP, INC.

DOE 15 - WOODCRAFT CABINETS

DOE 16 - NORTH EMPIRE CONSTRUCTION

DOE 17 - CONCO CEMENT COMPANY

DOE 18 - T & D TILE

DOE 19 - CROWN PLASTICS

DOE 20 - SACRAMENTO A-1 DOOR

DOE 21 - ACME INDUSTRIES

DOE 22 - ASSOCIATED LIGHTING FIXTURE COMPANY

DOE 23 - M & H ELECTRIC

DOE 24 - HARRIS FENCE

DOE 25 - BORCHERS BROS.

DOE 26 - PENINSULA FLOORS

DOE 27 - BENNETT FLOORS

DOE 28 - FRAMES WORK CONNECTION

DOE 29 - CERTIFIED PRODUCTS

DOE 30 - B. L. COHEN LANDSCAPE, INC.

DOE 31 - HANSON'S MASONRY

DOE 32 - TECHNIBUILDERS IRON, INC.

DOE 33 - CARLOS RODRIGUEZ PAINTING

DOE 34 - CROWLEY PLUMBING

DOE 35 - ASH ROOFING

DOE 36 - A. J. SULLIVAN COMPANY

DOE 37 - CELL-CRETE

DOE 38 - MJR CONSULTING ENGINEERS

DOE 39 - EDWARD L. PACK ASSOCIATES, INC.

DOE 40 - TJKM

DOE 41 - PACIFIC ENGINEERING

DOE 42 - PIOMBO-FISK, FIRENZE, McLEAN

DOE 43 - CHRISP COMPANY

DOE 44 - R.D. MOORE CONSTRUCTION COMPANY

DOE 45 - SIERRA PRECAST

DOE 46 - M & H ELECTRIC

DOE 47 - HOWARD ELECTRIC

DOE 48 - CONTINENTAL POOLS

DOE 49 - MJB PIPELINE

DOE 50 - PACIFIC LINING COMPANY, INC.

APPROVED AND RECOMMENDED:

Dated: 7/25/97

William L. Nagle, Special Master

IT IS ORDERED:

Dated: JUL 25 1997

Judge of the Superior Court

LAW OFFICES OF THOMAS E. MILLER
Thomas E. Miller / Bar #057821
4695 MacArthur Court, Suite 1150
Newport Beach, CA 92660
(714) 252-9150 FAX (714) 442-0646

Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

FILED
SAN MATEO COUNTY
JUL 25 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS	CASE NO. 388872 **CERTIFICATE OF CONSULTATION PURSUANT TO C.C.P. §411.36**

I, Thomas E. Miller, state and declare as follows:

I have reviewed the facts of this case and have consulted with at least one contractor who is licensed and does business in this state who I believe is knowledgeable in the relevant issues involved in the particular action, and have concluded on the basis of that review and consultation that the named defendants participated in the construction, installation, grading, or landscaping of those building elements or grounds alleged in the complaint to have been negligently

constructed, installed, graded, or landscaped. The person with whom I have consulted is not a party to the litigation.

Pursuant to C.C.P. §411.36(e) and Evidence Code §912, I invoke the privilege to refuse to disclose the identity of the contractor consulted and the contends of the consultation.

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

Executed this 24th day of July, 1997, at Newport Beach, California.

LAW OFFICES OF THOMAS E. MILLER

By: _____
THOMAS E. MILLER
Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

PROOF OF SERVICE
[C.C.P. Section 1013A(3)]

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is: 4695 MacArthur Court, Suite 1150, Newport Beach, California 92660.

On July 24, 1997, I served the foregoing document described as **CERTIFICATE OF CONSULTATION PURSUANT TO C.C.P. §411.36** on the other parties in this action, namely:

SEE ATTACHED SERVICE LIST

X **BY MAIL** - I placed a true copy in a sealed envelope addressed as indicated above. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Newport Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

___ **BY TELECOPIER** - I personally sent to the addressees' telecopier numbers attached hereto a true copy of the above-described document via facsimile transmission. Each transmission was reported as complete and without error. Copies of each transmission report are attached to this proof of service. Each report was properly issued by the transmitting facsimile machine.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 24, 1997 at Newport Beach, California.

Tamara Thweatt

TAMARA THWEATT

Edgewater Isle Homeowners Association v. The Anden Group, et al.

San Mateo Superior Court Case No. 388872

SERVICE LIST

William L. Nagle 345 Lorton Avenue, Suite 204 Burlingame, CA 94010-4116 (415) 579-0500 (415) 579-0623 (FAX) **SPECIAL MASTER**	Michael Meehen, Esq. **DPIC Companies, Inc.** 100 California Street, Suite 1190 San Francisco, CA 94105 (415) 433-1676 (415) 788-6507 (FAX) Cross-Defendants **MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.**
Sandra L. Fulmer Marisa D'Amico **Bishop, Barry, Howe, Haney & Ryder** A Professional Corporation Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111-3333 (415) 421-8550 (415) 362-4730 (FAX) Defendants and Cross-Complainants **THE ANDEN GROUP**	Donald B. Fornasier **Archer, McComas, Breslin, McMahon & Chritton** Post Office Box 8035 Walnut Creek, CA 94596 (510) 930-6600 (510) 930-6620 (FAX) Cross-Defendant **APRICIO CEMENT**
Thorsten J. Pray **Law Offices of John J. Carniato** 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (FAX) Defendants and Cross-Complainants **GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.**	Anthony J. DeMaria **Felice & DeMaria** 1130 Burnett Ave., Bld. D, Suite H Concord, CA 94520 (510) 676-5094 (510) 676-0548 (FAX) Cross-Defendant **GONSALVES & SANTUCCI, INC. dba CONCO CEMENT COMPANY**
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Thomas E. Miller / Bar #057821
4695 MacArthur Court, Suite 1150
Newport Beach, CA 92660
(714) 252-9150 FAX (714) 442-0646

Attorneys for Plaintiff,
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

FILED
SAN MATEO COUNTY
JUL 25 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	CASE NO. 388872 Assigned To: **CERTIFICATE OF MERIT PURSUANT TO C.C.P. §411.35**

The undersigned, as attorney for Plaintiff EDGEWATER ISLE HOMEOWNERS ASSOCIATION has reviewed the facts of the instant case and complaint of EDGEWATER ISLE HOMEOWNERS ASSOCIATION, consulted with and received an opinion from a professional engineer who is licensed and practices in the State of California and who practices in the same discipline as the defendants, and who is reasonably believed by the undersigned to be knowledgeable in the relevant issues involved in this

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///

litigation. Based upon this review and consultation, it has been concluded that there is a reasonable and meritorious cause for the filing of the instant complaint.

DATED: July 24, 1997

LAW OFFICES OF THOMAS E. MILLER

By: _____
THOMAS E. MILLER
Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

PROOF OF SERVICE
[C.C.P. Section 1013A(3)]

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is: 4695 MacArthur Court, Suite 1150, Newport Beach, California 92660.

On July 24, 1997, I served the foregoing document described as **CERTIFICATE OF MERIT PURSUANT TO C.C.P. §411.35** on the other parties in this action, namely:

SEE ATTACHED SERVICE LIST

X **BY MAIL** - I placed a true copy in a sealed envelope addressed as indicated above. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Newport Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 24, 1997 at Newport Beach, California.

Tamara Thweatt

TAMARA THWEATT

Edgewater Isle Homeowners Association v. The Anden Group, et al.

San Mateo Superior Court Case No. 388872

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Alan H. Finkel **Proskauer, Rose, Goetz & Mendelsohn** 2121 Avenue of the Stars, Suite 2700 Los Angeles, CA 90067-5010 (310) 284-5650 (310) 557-2193 (FAX) (Personal Counsel) **THE ANDEN GROUP**	

SCT 11-13

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE, Plaintiff/Petitioner,

vs.

THE ANDEN GROUP, ET AL, Defendant/Respondent.

Case No. 388872

NOTICE OF UNDOCUMENTED ACTION

JUL 25 1997

WENDY K. PAIGE

(Con Doe Amendment -- Doe 14-50)

(/) Original Summons issued _____, 19____.

( ) Writ of _____ issued (_____ County) _____, 19____ $_____.

( ) Additional filing fees ($_____) paid by _____ on _____ 19____.

( ) Bench Warrant issued _____, 19____. Bail fixed in the sum of $_____.

( ) Jury fees posted: Amount $_____ By _____.

( ) _____.

( ) _____.

( ) _____.

5074
William L. Nagle, SBN 59788
Special Master/Mediator
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-0500
(415) 579-0623 (Fax)

Sept 11-13-97

1997 JUL -9 A 11:27

FILED
CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 29 (Endorsed-Filed July 1, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 3, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

Proof of Service List

William L. Nagle, Esq. Special Master/Mediator 345 Lorton Avenue, Suite #204 Burlingame, CA 94010 (415) 579-0500 (415) 579-0623 (Fax)	SPECIAL MASTER
Michael B. Allen, Esq. Law Offices of Michael B. Allen 411 Borel Avenue, Suite #445 San Mateo, CA 94402 (415) 341-0800 (415) 341-1147 (Fax)	Plaintiff Edgewater Isle HOA, Inc.
Marisa D'Amico, Esq. Bishop, Barry, Howe, Haney & Ryder Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111 (415) 421-8550 (415) 362-4730 (Fax)	The Anden Group, Esden Partners, MDG Associates, Ltd., ESR Corporation, TMD Corporation, and Miden Corporation
Alan H. Finkel, Esq. Zimmerman, Koomer & Connolly 10960 Wilshire Blvd., Suite #1225 Los Angeles, CA 90024 (310) 231-6565 (310) 231-6566 (Fax)	The Anden Group (personal counsel)
Alec M. Barinholtz, Esq. Ross, Dixon & Masback Five Park Plaza, Suite #1200 Irvine, CA 92614-8529 (714) 622-2700 (714) 622-2739 (Fax)	International Insurance Company (Anden Group)
Lewis K. Loss, Esq. Ross, Dixon & Masback 601 Pennsylvania Avenue, N.W. North Building Washington, D.C. 20004-2688 (202) (202) 662-2190 (Fax)	International Insurance Company (Anden Group)

Mr. Alan Freudenheim International Insurance Company 181 W. Madison Street, 26th Floor Chicago, IL 60602 (312) 849-5150 (312) 849-5293 (Fax)	International Insurance Company (Anden Group)
Thomas A. Foster, Esq. Marrone, Robinson, Frederick & Foster 111 N. 1st Street, Suite #300 Burbank, CA 91502 (818) 841-1144 (818) 841-0746 (Fax)	
A. Raymond Hammerick, III, Esq. Law Offices of A. Raymond Hammerick, III 10 Universal City Plaza, Suite #2055 Universal City, CA 91608 (818) 763-5295 (818) 763-2308 (Fax)	
Amy Dantzler, Esq. Quisenberry & Barbanel, LLP 2049 Century Park East, Suite #2200 Los Angeles, CA 90067 (310) 785-7966 (310) 785-0254 (Fax)	
John J. Carniato, Esq. Law Offices of John J. Carniato 3736 Mt. Diablo Blvd., Suite #300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (Fax)	O'Brien & Hicks, Inc., O'Brien & Hicks 1988 & Beyond, Ltd., and Gloria Development co., Inc.
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(in 7/96)

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1997 JUL -1 P 12:53

FILED
CLERK OF THE SUPERIOR COURT
BY _____ DEPUTY CLERK

Set 11-13-97

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	NO. 388872 **PRE-TRIAL ORDER NO. 29**

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that Plaintiff's counsel is authorized to distribute from the Edgewater Isle Homeowners Association trust account to the Edgewater Isle Homeowners Association the $800,000.00 received in settlement from NORTH EMPIRE CONSTRUCTION along with all interest accrued on that $800,000.00 to and including the date of distribution.

/ / /

/ / /

APPROVED AND RECOMMENDED:

Dated: 6/19/97

WILLIAM L. NAGLE, SPECIAL MASTER

IT IS ORDERED:

Dated: 6-30-97

JUDGE OF THE SUPERIOR COURT

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FILED
SAN MATEO COUNTY
JUN 24 1997
Clerk of the Superior Court
By DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 28 (Endorsed-Filed June 16, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 18, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

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FILED
SAN MATEO COUNTY
JUN 16 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	NO. 388872 **PRE-TRIAL ORDER NO. 28**

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

At the Special Master's request a Discovery Committee has been formed and now consists of Michael B. Allen, attorney for Edgewater Isle Homeowners Association, Marisa D'Amico, attorney for The Anden Group, Jim Carniato, attorney for O'Brien & Hicks, and, Albert Blake, attorney for Cross-Defendant Tara Coatings. The Discovery Committee met on May 29, 1997, at the offices of Special Master William Nagle and made recommendations to the Special Master regarding the conduct of

discovery in this matter. Special Master William Nagle has accepted these recommendations and good cause appearing,

IT IS HEREBY ORDERED that:

1. Plaintiff shall conduct additional destructive testing during the months of June and July, 1997. The Plaintiff shall provide two (2) weeks notice to all parties regarding the date and time for said destructive testing and a summary of what testing is to take place;

2. Each party is to provide all other parties with its disclosure of expert witness information on or before July 1, 1997. The form of the expert witness disclosures is to conform with Section 2034(f) of California Code of Civil Procedure;

3. So long as Plaintiff completes its additional destructive testing on or before August 1, 1997, Supplemental Expert Witness Disclosures necessitated by the additional destructive testing may be exchanged to and including August 15, 1997;

4. As to potential homeowners witnesses, all parties are to provide Plaintiff with a list of specific homeowner names based on a review of Plaintiff's documents in the document depository or make a request to take the deposition of the current owner of a specific unit on or before June 20, 1997. The preparation of this list shall be coordinated with Anden's counsel, Marisa D'Amico;

5. All parties shall provide to Marisa D'Amico a list of proposed (Person Most Knowledgeable) depositions to be taken on

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or before June 17, 1997, so that a complete list may be distributed by Marisa D'Amico on or before June 20, 1997;

6. The costs of all depositions including the cost for the original transcript and the hourly cost of expert witnesses shall be divided equally amongst the parties who attend the deposition regardless of who is deemed to be the party taking the deposition.

7. Deposition of witnesses deemed to have been noticed by Plaintiffs shall be taken at Plaintiffs counsel's office as follows:

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Depositions of witnesses deemed to be noticed by Defendants and/or Cross-Defendants shall be taken at the offices of counsel for the Anden Group, Marisa D'Amico as follows:

BISHOP, BARRY, HOWE, HANEY & RYDER
Embarcadero Center West
275 Battery Street, 12th Floor
San Francisco, CA 94111
(415) 421-8550

Court reporters shall be arranged by the office hosting the deposition.

8. The next meeting of the Discovery Committee shall take place on **July 8, 1997, at 10:00 a.m.** at Special Master William Nagle's office.

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APPROVED AND RECOMMENDED:

Dated: 6/3/97

WILLIAM L. NAGLE, SPECIAL MASTER

IT IS ORDERED:

Dated: 6-16-97

JUDGE OF THE SUPERIOR COURT

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CROWLEY COMPANY

FILED
SAN MATEO COUNTY
JUN - 9 1997
Clerk of the Superior Court
By DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 NOTICE OF ENTRY OF ORDER

YOU AND EACH OF YOU PLEASE TAKE NOTICE that on May 22, 1997, the Honorable Rosemary Pfeiffer signed and approved Crowley Company's application for a determination that its settlement with the Edgewater Isle Homeowners Association was in good faith and that any pending or future claims by alleged joint tortfeisers or co-obligators against Crowley Company are barred.

A copy of the Judge Pfeiffer's Order Determining Crowley Company's Settlement to be in Good Faith is attached to this Notice.

///

DATED: 6-5, 1997

HUBER-SAMUELSON, APC

By: _____
JOSEPH H. HUBER
Attorneys for Cross-defendant
CROWLEY COMPANY

4-22-97
#14

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Attorneys for Cross-defendant
CROWLEY COMPANY

ENDORSED

1997 MAY 23 P 1:59

FILED
CLERK OF THE SUPERIOR COURT
by NAOMI MEKEDIAK
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 ~~[PROPOSED]~~ ORDER DETERMINING CROWLEY COMPANY'S SETTLEMENT TO BE IN GOOD FAITH

The Application of CROWLEY COMPANY for Determination of Good Faith Settlement was submitted with this party's Notice of Settlement, Application for Determination of Good Faith Settlement, Declaration of Joseph H. Huber and [Proposed] Order.

CROWLEY COMPANY'S Application seeks to bar claims against it and a dismissal of the complaint and cross-complaints against it for all issues related to any plumbing services provided by CROWLEY COMPANY including, but not limited to labor and materials, for and/or at the premises known as Edgewater Isle South. It appears that the foregoing documents were mailed by

Certified Mail on all parties to this action and this court on April 18, 1997 pursuant to Proof of Service filed herein. It further appears that a period of 25 days has elapsed from such mailing and no party to the action has filed a motion to contest the good faith of the settlement. It further appears that the provisions of Code of Civil Procedure §877.6(a)(2) and the requirements of Tech-Bilt, Inc. vs. Woodward-Clyde & Associates (1985), 38 Cal.3d 488 have been satisfied and with good cause appearing therefore:

1. The settlement between Plaintiff and CROWLEY COMPANY was made in good faith;

2. CROWLEY COMPANY is entitled to the protection of Code of Civil Procedure §877 et seq. as to any plumbing services provided by CROWLEY COMPANY including, but not limited to, labor and materials, for and/or at the premises known as Edgewater Isle South.

3. The settlement bars any pending or future claims by alleged joint tort feasors or co-obligators against CROWLEY COMPANY for equitable contribution, or partial, comparative or implied indemnity for the Plaintiff's plumbing claims in this action; and

4. All cross-complaints against CROWLEY COMPANY in this action asserting such barred claims are dismissed with prejudice.

DATED: 5-22-97

ROSEMARY PFEIFFER
JUDGE OF THE SUPERIOR COURT

Case Name: [redacted]dgewater Isle HOA v. The [redacted]den Group, et al.
Case No.: 388872
File No.: 36657-6-5

PROOF OF SERVICE

I certify and declare as follows:

I am over the age of 18 years, and not a party to the within action. My business address is 210 North Fourth Street, Suite 400, San Jose, California 95112, which is located in the county where the mailing described below took place. On the date listed below, I served the following documents: **NOTICE OF ENTRY OF ORDER** by placing a true copy thereof enclosed in a sealed envelope and served in the manner and/or manners described below to each of the parties herein and addressed as stated below:

See Attached Service List

[X] United States Postal Service, U.S. Mail, with First Class postage prepaid and deposited in sealed envelope at San Jose, California. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

[ ] Facsimile Transmission

[ ] Hand-Delivery by Courier: same day delivery

[ ] Other:

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

Executed on June 5, 1997

Rose Nichols

Rose Nichols

250457.1

Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

SERVICE LIST

FOR: THE ANDEN GROUP, ESDEN PARTNERS, MDG ASSOCIATES, LTD., ESR CORPORATION, TMD CORPORATION and MIDEN CORPORATION
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Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

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(Co-Counsel)
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(personal counsel)
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36657-6-5
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Attorneys for Cross-defendant
CROWLEY COMPANY

FILED
SAN MATEO COUNTY
JUN - 9 1997
Clerk of the Superior Court
By Rosario Leoso
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 ASSOCIATION OF ATTORNEYS

Gassett, Perry & Frank hereby associates the law firm of Huber-Samuelson as co-counsel for each and every Gassett, Perry & Frank client in the above-entitled action. The associated counsel can be reached at the following address and telephone number:

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///

///

DATED: 6-5, 1997

GASSETT, PERRY & FRANK

By: _____
JOSEPH H. HUBER

I agree to the ~~above~~ association

DATED: 6-5, 1997

HUBER-SAMUELSON

By: _____
JOSEPH H. HUBER

Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

PROOF OF SERVICE

I certify and declare as follows:

I am over the age of 18 years, and not a party to the within action. My business address is 210 North Fourth Street, Suite 400, San Jose, California 95112, which is located in the county where the mailing described below took place. On the date listed below, I served the following documents: ASSOCIATION OF ATTORNEYS by placing a true copy thereof enclosed in a sealed envelope and served in the manner and/or manners described below to each of the parties herein and addressed as stated below:

See Attached Service List

[X] United States Postal Service, U.S. Mail, with First Class postage prepaid and deposited in sealed envelope at San Jose, California. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

[ ] Facsimile Transmission

[ ] Hand-Delivery by Courier: same day delivery

[ ] Other:

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

Executed on June 5, 1997

Rose Nichols

Rose Nichols

Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

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For: Silva Fence Company
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210 North Fourth Street, Suite 400
San Jose, California 95112

ATTORNEY FOR (Name):

Insert name of court and name of judicial district and branch court, if any:
San Mateo County Superior Court
Redwood City, CA 94063

PLAINTIFF/PETITIONER: EDGEWATER ISLE HOMEOWNERS ASSOCIATION
DEFENDANT/RESPONDENT: THE ANDEN GROUP, et al.

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
JUN - 9 1997
Clerk of the Superior Court
By Rosario Biosic
DEPUTY CLERK

REQUEST FOR DISMISSAL

[ ] Personal Injury, Property Damage, or Wrongful Death
[ ] Motor Vehicle [ ] Other
[ ] Family Law
[ ] Eminent Domain
[X] Other (specify): Negligence, Breach of Implied

CASE NUMBER: 388872

SC 11/13

— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

1. **TO THE CLERK:** Please **dismiss** this action as follows:
   a. (1) [X] With prejudice (2) [ ] Without prejudice
   b. (1) [ ] Complaint (2) [ ] Petition
   (3) [X] Cross-complaint filed by (name): THE ANDEN GROUP, et al. on (date): August 25, 1995
   (4) [ ] Cross-complaint filed by (name): on (date):
   (5) [ ] Entire action of all parties and all causes of action
   (6) [X] Other (specify):* Cross-Complaint of THE ANDEN GROUP as against CROWLEY COMPNAY (sued herein as CROWLEY PLUMBING) only. EACH SIDE TO BEAR THEIR OWN COSTS.

Date:

MARISA D'AMICO
(TYPE OR PRINT NAME OF [X] ATTORNEY [ ] PARTY WITHOUT ATTORNEY)

(SIGNATURE)

Attorney or party without attorney for:
[ ] Plaintiff/Petitioner [ ] Defendant/Respondent
[X] Cross-complainant

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

2. **TO THE CLERK:** Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF [ ] ATTORNEY [ ] PARTY WITHOUT ATTORNEY)

(SIGNATURE)

Attorney or party without attorney for:
[ ] Plaintiff/Petitioner [ ] Defendant/Respondent
[ ] Cross-complainant

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

(To be completed by clerk)

3. [ ] Dismissal entered as requested on (date):
4. [X] Dismissal entered on (date): JUN - 9 1997 as to only (name): See above
5. [ ] Dismissal **not entered** as requested for the following reasons (specify):
6. [ ] a. Attorney or party without attorney notified on (date):
   b. Attorney or party without attorney not notified. Filing party failed to provide
   [ ] a copy to conform [ ] means to return conformed copy

Date: JUN - 9 1997 PEGGY THOMPSON Clerk, by Rosario Biosic, Deputy

Case Name: Edgewater Isle HOA v. The [redacted]den Group, et al.
Case No.: 388872
File No.: 36657-6-5

PROOF OF SERVICE

I certify and declare as follows:

I am over the age of 18 years, and not a party to the within action. My business address is 210 North Fourth Street, Suite 400, San Jose, California 95112, which is located in the county where the mailing described below took place. On the date listed below, I served the following documents: **REQUEST FOR DISMISSAL** by placing a true copy thereof enclosed in a sealed envelope and served in the manner and/or manners described below to each of the parties herein and addressed as stated below:

See Attached Service List

[X] United States Postal Service, U.S. Mail, with First Class postage prepaid and deposited in sealed envelope at San Jose, California. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

[ ] Facsimile Transmission

[ ] Hand-Delivery by Courier: same day delivery

[ ] Other:

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

Executed on June 5, 1997

Rose Nichols

Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

SERVICE LIST

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Case Name: Edgewater Isle HOA v. The Anden Group, et al.
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For: Silva Fence Company
(Co-Counsel)
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(personal counsel)
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FILED
SAN MATEO COUNTY
MAY 28 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 27 (Endorsed-Filed May 21, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 23, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

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(in 7/96)

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FILED
SAN MATEO COUNTY
MAY 23 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 26 (Endorsed-Filed May 19, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 21, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

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Karen Wentzel, Esq. Ritchie, Fisher, Whitman & Klein 1717 Embarcadero Road Palo Alto, CA 94303 (415) 857-1717 (415) 857-1288 (Fax)	Soil Foundation Systems (out 5/96)
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4-22-97 #14 set 11-13-97

36657-6-5
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Attorneys for Cross-defendant
CROWLEY COMPANY

1997 MAY 23 P 1:59

FILED
CLERK OF THE SUPERIOR COURT
BY [illegible] DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 ~~[PROPOSED]~~ ORDER DETERMINING CROWLEY COMPANY'S SETTLEMENT TO BE IN GOOD FAITH

The Application of CROWLEY COMPANY for Determination of Good Faith Settlement was submitted with this party's Notice of Settlement, Application for Determination of Good Faith Settlement, Declaration of Joseph H. Huber and [Proposed] Order.

CROWLEY COMPANY'S Application seeks to bar claims against it and a dismissal of the complaint and cross-complaints against it for all issues related to any plumbing services provided by CROWLEY COMPANY including, but not limited to labor and materials, for and/or at the premises known as Edgewater Isle South. It appears that the foregoing documents were mailed by

Certified Mail on all parties to this action and this court on April 18, 1997 pursuant to Proof of Service filed herein. It further appears that a period of 25 days has elapsed from such mailing and no party to the action has filed a motion to contest the good faith of the settlement. It further appears that the provisions of Code of Civil Procedure §877.6(a)(2) and the requirements of Tech-Bilt, Inc. vs. Woodward-Clyde & Associates (1985), 38 Cal.3d 488 have been satisfied and with good cause appearing therefore:

1. The settlement between Plaintiff and CROWLEY COMPANY was made in good faith;

2. CROWLEY COMPANY is entitled to the protection of Code of Civil Procedure §877 et seq. as to any plumbing services provided by CROWLEY COMPANY including, but not limited to, labor and materials, for and/or at the premises known as Edgewater Isle South.

3. The settlement bars any pending or future claims by alleged joint tort feasors or co-obligators against CROWLEY COMPANY for equitable contribution, or partial, comparative or implied indemnity for the Plaintiff's plumbing claims in this action; and

4. All cross-complaints against CROWLEY COMPANY in this action asserting such barred claims are dismissed with prejudice.

DATED: 5/22/97

JUDGE OF THE SUPERIOR COURT

E

36657-6-5
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1997 APR 22 P 1:12

FILED
CLERK OF THE SUPERIOR COURT
BY [signature]
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA.

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 14 APPLICATION FOR DETERMINATION OF GOOD FAITH SETTLEMENT

COMES NOW Cross-Defendant CROWLEY COMPANY and applies to this court for an order that its settlement with Plaintiff herein has been determined to be one made in good faith.

The settlement is of a disputed claim and is made after extensive arms-length negotiations under the control of Special Master William L. Nagle. The settlement calls for payment by CROWLEY COMPANY'S insurance carriers on behalf of CROWLEY COMPANY to Plaintiff in the amount of THIRTY-FIVE THOUSAND DOLLARS ($35,000.00) in exchange for a full and complete and final release of all claims and a dismissal of Plaintiff's action as

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well as the cross-complaint of THE ANDEN GROUP, et al. against CROWLEY COMPANY.

DATED: 4-18, 1997

GASSETT, PERRY & FRANK

By: _____
JOSEPH H. HUBER
Attorneys for Cross-defendant CROWLEY COMPANY

Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

PROOF OF SERVICE BY CERTIFIED MAIL

I certify and declare as follows:

I am over the age of 18 years, and not a party to the within action. My business address is 210 North Fourth Street, Suite 400, San Jose, California 95112, which is located in the county where the mailing described below took place. On the date listed below, I served the following documents: NOTICE OF SETTLEMENT, APPLICATION FOR DETERMINATION OF GOOD FAITH SETTLEMENT, DECLARATION OF JOSEPH H. HUBER IN SUPPORT THEREOF and [PROPOSED] ORDER DETERMINING CROWLEY COMPANY'S SETTLEMENT TO BE IN GOOD FAITH by placing a true copy thereof enclosed in a sealed envelope and served in the manner and/or manners described below to each of the parties herein and addressed as stated below:

See Attached Service List

☐ United States Postal Service, U.S. Mail, with First Class postage prepaid and deposited in sealed envelope at San Jose, California. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

☐ Facsimile Transmission

☐ Hand-Delivery by Courier: same day delivery

☒ Other: CERTIFIED MAIL -- RETURN RECEIPT REQUESTED.

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

Executed on April 18, 1997

Rose Nichols

Rose Nichols

Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

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Case No.: 388872
File No.: 36657-6-5

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Case Name: Edgewater Isle HOA v. The Anden Group, et al.
Case No.: 388872
File No.: 36657-6-5

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Attorneys for Cross-defendant
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1997 APR 22 P 1:12

FILED
CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 **DECLARATION OF JOSEPH H. HUBER IN SUPPORT OF APPLICATION FOR DETERMINATION OF GOOD FAITH SETTLEMENT**

I, Joseph H. Huber, declare:

1. That I am an attorney at law duly licensed to practice before all the courts of the State of California and am a partner in the law firm of Gassett, Perry & Frank, attorneys of record for CROWLEY COMPANY in the above-entitled action.

2. I have negotiated a settlement on behalf of CROWLEY COMPANY with Plaintiff in this action calling for a payment by the insurance carriers for CROWLEY COMPANY, on behalf of CROWLEY COMPANY, in the sum of THIRTY-FIVE THOUSAND DOLLARS ($35,000.00) in exchange for a full and final release of all claims by

Plaintiff, a dismissal with prejudice of any action filed by Plaintiff against CROWLEY COMPANY, and a dismissal with prejudice of the cross-complaint of THE ANDEN GROUP, et al. against CROWLEY COMPANY. The settlement is expressly conditioned and contingent upon the order of this court determining that the settlement is made in good faith.

3. This settlement was reached after numerous settlement conferences conducted by Special Master William L. Nagle, conferences involving experts, and numerous arms-length negotiations with Plaintiff's counsel and counsel for THE ANDEN GROUP, et al.

4. The settlement amount of THIRTY-FIVE THOUSAND DOLLARS ($35,000.00), referred to in the Application for Determination of Good Faith Settlement, is one reached in good faith, is not intended to prejudice the rights of any party, and is considered by the settling parties, and the Special Master, to be in proportion to the potential liability of Cross-Defendant CROWLEY COMPANY in this action.

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

Executed this 18th ~~day~~ of April, 1997 at San Jose, California.

JOSEPH H. HUBER

36657-6-5
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Attorneys for Cross-defendant
CROWLEY COMPANY

1997 APR 22 P 1:12

FILED
CLERK OF THE SUPERIOR COURT
by [signature]
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, vs. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	Case No. 388872 **NOTICE OF SETTLEMENT**

TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that CROWLEY COMPANY has settled with Plaintiff, EDGEWATER ISLE HOMEOWNERS ASSOCIATION, in this action in the amount of THIRTY-FIVE THOUSAND DOLLARS ($35,000.00). This settlement is conditioned on 1) a full and complete release by Plaintiff of CROWLEY COMPANY from any and all liabilities, demands or claims relating to any plumbing services performed by CROWLEY COMPANY at the premises known as Edgewater Isle South.; 2) a dismissal with prejudice of the cross-complaint filed by THE ANDEN GROUP, et al. against CROWLEY COMPANY; and 3) approval by

the court of the settlement as one made in good faith pursuant to Code of Civil Procedure §877.6.

DATED: 4-18, 1997

GASSETT, PERRY & FRANK

By: _____
JOSEPH H. HUBER
Attorneys for Cross-defendant CROWLEY COMPANY

JOSEPH H. HUBER
PETER G. SAMUELSON
RONALD L. STEFANI
JOHN S. BURTON
WILLIAM L. REAGAN
L. CHRISTIAN SPIELLER
TIMOTHY R. VOLKMANN
WILLIAM H. GAVIN III
TIMOTHY J. SCHMAL
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THOMAS P. DWYER
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GLENN D. KIMM
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DIANE E. BAYLOR
DEAN A. TOMPKINS
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DANIEL A. OJEDA
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DANIEL J. BAN
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May 19, 1997

MAY 21 1997

Clerk of the Court
Superior Court of California
County of San Mateo
401 Marshall Street
Redwood City, CA 94063

Re: Edgewater Isle HOA vs. The Anden Group, et al.
Action No. 388872
Our File No.: 36657-6-5

Gentlepersons:

On April 18, 1997 I sent you a Notice of Settlement, An Application for Determination of Good Faith Settlement, my declaration and Proposed Order Determining Crowley Company's Settlement is in Good Faith. I presume that material remains with you as I did not receive any filed-endorsed copies.

I have now received all of the certified mail receipts and am enclosing those with a request that you have the appropriate judge execute the Order, and return a filed-endorsed copy to me.

If there is anything further you require, please do not hesitate to call.

Sincerely yours,

Joseph H. Huber

JHH:rn

Enclosure

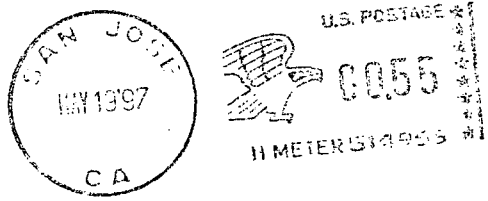
291745.1

Gassett, Perry & Frank

Attorneys at Law

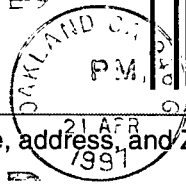
210 North Fourth Street, Suite 400

San Jose, California 95112



Clerk of the Court
Superior Court of California
County of San Mateo
401 Marshall Street
Redwood City, CA 94063

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Anthony B. Varni, Esq.
VARNI, FRASER, HARTWELL
& RODGERS
22771 Main Street
Hayward, CA 94543

4a. Article Number
P109828313

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
4/21

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

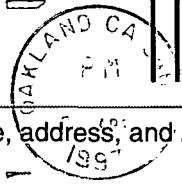
6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Anthony J. DeMaria, Esq.
FELICE & DEMARIA
1130 Burnett Avenue
Bldg. D, Suite H
Concord, CA 94520

4a. Article Number
P 109 828 304

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
4/21/97

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811,** December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

SAN FRANCISCO CA 941
PM

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

01

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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- Complete items 3, 4a, and 4b.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

William L. Nagle
Special Master
345 Lorton Ave., #204
Burlingame, CA 94010=4116

4a. Article Number
P 109 828 299

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
9/21/92

5. Received By: *(Print Name)*
C McInerney

6. Signature: *(Addressee or Agent)*
X C McInerney

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

JHH

01

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Helen Baumann, Esq.
LAW OFFICES OF EUGENE BASS
495 Seaport Court, #103
Redwood City, CA 94063

4a. Article Number
P 109 828 298

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
4/21/97

5. Received By: *(Print Name)*
ZORICA DUKANOVIC

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X Zorica Dukanovic

PS Form **3811,** December 1994

Domestic Return Receipt

Is your RETURN ADDRESS completed on the front?

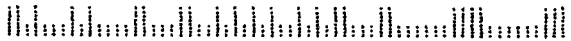
Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

● Print your name, address, and ZIP Code in this box ●

Gassett, Perry & Frank
210 North Fourth Street. Suite 400
San Jose, CA. 95112



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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Jonathan Margolis, Esq.
LOW, BALL & LYNCH
10 Twin Dolphin Dr., #B-500
Redwood City, CA 94065

4a. Article Number P 109 828 302

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery 4-22-97

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*

X

SAN FRANCISCO CA 22 APR 1997 PM

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

David N. Poll, Esq.
COLLINS & SCHLOTHAUER
60 S. Market St., #1100
San Jose, CA 95113-2396

4a. Article Number
P 109 828 312

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
APR 21 1994

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*
X

8. Addressee's Address *(Only if requested and fee is paid)*

Thank you for using Return Receipt Service.

PS Form **3811,** December 1994

Domestic Return Receipt

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

SAN JOSE CA 951
PM
1991

• Print your name, address, and ZIP Code in this box •

GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

Is your RETURN ADDRESS completed on the reverse side?

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Josh Sinnick, Esq.
HOGE, FENTON, JONES & APPEL
Sixty S. Market Street
San Jose, CA 95113-2396

4a. Article Number
P 109 828 311

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
APR 21 1997

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

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GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Albert P. Blake, Esq.
OWEN AND MELBYE
700 Jefferson AVenue
Redwood City, CA 94063

4a. Article Number
P 109 828 309

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
4/4

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X Stephanie Graven

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

JHH

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Michael B. Allen, Esq.
LAW OFFICES OF MICHAEL B. ALLEN
411 Borel Avenue, #445
San Mateo, CA 94402

4a. Article Number
P 109 828 296

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
4-21-97

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X Diane Kenney

PS Form **3811,** December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

S. Mitchell Kaplan, Esq.
GORDON & REES
275 Battery St., 20th Floor
San Francisco, CA 94111

4a. Article Number
P 109 828 305

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
12/9/97

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
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Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

John J. Carniato, Esq.
LAW OFFICES OF JOHN J. CARNIATO
3736 Mt. Diablo Blvd., #300
Lafayette, CA 94549

4a. Article Number
P 109 828 300

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
4-21

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811,** December 1994

Domestic Return Receipt

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UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

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GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Joe Thompson
Attorney at Law
981 Fremont Street
Santa Clara, CA 95050

4a. Article Number
P109828310

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
4219

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

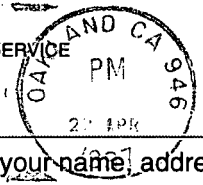
6. Signature: *(Addressee or Agent)*
X Michael C. Babowal

PS Form **3811,** December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

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Gassett, Perry & Frank
210 North Fourth Street, Suite 400
San Jose, CA. 95112

01

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1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Scott C. Finch, Esq.
Beth S. Freedman, Esq.
LARSON & BURNHAM
P. O. Box 119
Oakland, CA 94604

4a. Article Number
P 109 828 316

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
4-21-97

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*
X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811,** December 1994

Domestic Return Receipt

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UNITED STATES POSTAL SERVICE

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Postage & Fees Paid
USPS
Permit No. G-10

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San Jose, CA. 95112

JHH

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Donald B. Fornasieer, Esq.
ARCHER, MCCOMAS, BRESLIN,
MCMAHON & CHRITTON
P. O. BOX 8035
Walnut Creek, CA 94596

4a. Article Number
P 109 828 301

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery APR 22 1994

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811,** December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

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GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

JAH

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Nancy A. McPherson, Esq.
HOLMES, DREVLOW, CARMODY
SCHMIDT & NAKANO
180 Montgomery St., #2100
San Francisco, CA 94104-4205

4a. Article Number
P109 828 307

4b. Service Type

- ☐ Registered
- ☐ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery
APR 21 1997

5. Received By: *(Print Name)*
Mark Thaler

6. Signature: *(Addressee or Agent)*
X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

JHH

3665765

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Thomas O. Haran, Esq.
Marisa D'Amico, Esq.
BISHOP, BARRY, HOWE, HANEY & RYDER
@&% Battery St., 12th Floor
San FRancisco, CA 94111-3333

4a. Article Number

P 109 828 295

4b. Service Type

☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*

X

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210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restrictive Delivery

Consult postmaster for fee.

3. Article Addressed to:

Ara Shirinian, Esq.
CONROY, SHIRINIAN & MAHONEY
444 Market St., Ste. 2675
San Francisco, CA 94111

4a. Article Number
P 109 828 308

4b. Service Type
☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
4-21

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811**, December 1994

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GASSETT, PERRY & FRANK
210 N. 4th ST., SUITE 400
SAN JOSE, CA 95112

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- Write *"Return Receipt Requested"* on the mailpiece below the article number.
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I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Norman La Force, Esq.
LAW OFFICES OF F. ROSS ADKINS
25 Pacific Avenue Mall
San Francisco, CA 94111

4a. Article Number

P109828314

4b. Service Type

☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*

X

8. Addressee's Address *(Only if requested and fee is paid)*

STAGE DUE SEC SAN FRANCISCO, CA 94
PR
1997

PS Form **3811**, December 1994

Domestic Return Receipt

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Permit No. G-10

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Gassett, Perry & Frank
210 North Fourth Street. Suite 400
San Jose, CA. 95112

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Kevin J. Tully, ESq.
GREENE, CHAUVEL, DESCALSO
& TULLY
901 Mariner's Island Blvd.
Suite 400
San Mateo, CA 94404

4a. Article Number
P109 828 303

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery APR 21 1997

5. Received By: *(Print Name)*
C. Yoshiya

6. Signature: *(Addressee or Agent)*
X

8. Addressee's Address *(Only if requested and fee is paid)*

PS Form **3811,** December 1994

Domestic Return Receipt

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Postage & Fees Paid
USPS
Permit No. G-10

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Gassett, Perry & Frank
210 North Fourth Street, Suite 40
San Jose, CA. 95112

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Alan H. Finkel, Esq.
PROSKAUER, ROSE, GOETZ
& MENDELSOHN
2121 Avenue of the Stars
Suite 2700
Los Angeles, CA 90067-5010

4a. Article Number
P 109 828 315

4b. Service Type

- ☐ Registered
- ☒ Certified
- ☐ Express Mail
- ☐ Insured
- ☐ Return Receipt for Merchandise
- ☐ COD

7. Date of Delivery APR 22 1997

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature *(Addressee or Agent)*

X

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

Thomas O. Haran, Esq. (SB #76680)
Marisa L. D'Amico, Esq. (SB #152132)
BISHOP, BARRY, HOWE, HANEY & RYDER
275 Battery Street, Twelfth Floor
San Francisco, CA 94111-3333
Telephone: (415) 421-8550

Attorneys for Defendants and Cross-Complainants THE ANDEN GROUP, ESDEN PARTNERS, MDG ASSOCIATES, LTD., ESR CORPORATION, TMD CORPORATION and MIDEN CORPORATION

FILED
SAN MATEO COUNTY
MAY 21, 1997
Clerk of the Superior Court
By Terri Petrucci
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants.

AND RELATED CROSS-ACTIONS.

Case No. 388872

PRE-TRIAL ORDER NO. 27

William L. Nagle, having been appointed Special Master in the above-entitled matter, and having been presented with the above request,

IT IS SO ORDERED that coverage counsel for O'Brien & Hicks and Tony Varni shall attend the Mandatory Settlement Conference, set for May 20, 1997 at 1:30 p.m., at the office of the Special

///

///

///

BISHOP, BARRY, HOWE, HANEY & RYDER
A PROFESSIONAL CORPORATION
275 BATTERY STREET, TWELFTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3333
TELEPHONE (415) 421-8550

Master, Bill Nagle, located at 345 Lorton Avenue, Burlingame, California. Carrier representatives for O'Brien & Hicks may participate by telephone stand-by.

DATED: May 15, 1997

William L. Nagle, Esq.
SPECIAL MASTER

MAY 19 1997

JUDGE OF THE SUPERIOR COURT

BISHOP, BARRY, HOWE, HANEY & RYDER
A PROFESSIONAL CORPORATION
275 BATTERY STREET, TWELFTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3333
TELEPHONE (415) 421-6560

5074
William L. Nagle, SBN 59788
Special Master/Mediator
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-0500
(415) 579-0623 (Fax)

Set 11-13-97

1997 MAY 19 P 3:38

FILED
CLERK OF THE SUPERIOR COURT
BY [signature] DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

PRE-TRIAL ORDER NO. 26

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. Jury trial of this matter is set for December 8, 1997 at 9:00 a.m. in the Department of the Presiding Judge.

2. Mandatory Settlement Conference is set for November 13, 1997 at 9:30 a.m. in Dept. 3.

3. The Special Master shall hold a Settlement Conference with the Anden Group only on May 20, 1997 at 1:30 p.m. at the offices of the Special Master, 345 Lorton Avenue, Suite #204, Burlingame, California.

Counsel and principals with authority, including insurance claims representatives and coverage counsel for all Anden Group insurance carriers, shall attend unless excused by the Special Master. Counsel, Alan Finkel, shall attend. Counsel for plaintiff shall attend.

4. On May 27, 1997, the stay on discovery shall be lifted.

5. On May 29, 1997 at 10:00 a.m., the Discovery Committee shall meet and confer at the offices of the Special Master, 345 Lorton Avenue, Suite #204, Burlingame, California. The Discovery Committee shall consist of: Michael Allen, Marisa D'Amico, Donald Sullivan, and John Carniato.

APPROVED AND RECOMMENDED:

DATED: May 8, 1997

William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: 5-16-97

Judge of the Superior Court

WILLIAM L. NAGLE
SPECIAL MASTER/MEDIATOR
345 LORTON AVENUE, SUITE 204
BURLINGAME, CA 94010
(415) 579-0500
FAX (415) 579-0623

May 15, 1997

The Honorable Mark R. Forcum
Presiding Judge of the Superior Court
Superior Court of California
County of San Mateo
401 Marshall Street
Redwood City, CA 94063

RE: Edgewater Isle HOA v. The Anden Group, et al.
Case No: 388872
Our File No: 5074

Dear Judge Forcum:

This is a construction defect case in the Special Master Program. Enclosed please find proposed Pre-Trial Order No. 27. Trusting the Order meets with your approval, kindly date and sign it, and request your clerk to return the endorsed-filed copy in the envelope provided. My office will serve all counsel.

If you have any questions regarding the proposed Order or the status of the case, please so advise.

Respectfully yours,

William L. Nagle/cb

William L. Nagle

WLN:cb
Enclosure

CHESTER G. MOORE, III
State Bar No. 042480
LOW, BALL & LYNCH
10 Twin Dolphin, Suite B-500
Redwood City, California 94065
Telephone (415) 591-8822

Attorneys for Defendant
PACIFIC COAST BUILDING PRODUCTS, INC. dba
ALCAL ROOFING AND INSULATION

FILED
SAN MATEO COUNTY
APR 14 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, INC., et al. Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS	NO. 388872 ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT

COMES NOW defendant Pacific Coast Building Products, Inc. dba Alcal Roofing & Insulation, sued herein as (DOE 11 - Alcal Roofing & Insulation) hereby answers plaintiff's second amended complaint as follows:

Under the provisions of Section 431.30(d) of the California Code of Civil Procedure, this answering defendant denies each and every, and all the allegations in said second amended complaint and the whole thereof, and further denies that plaintiff has sustained,

or will sustain, damages in any sum or sums, or at all, by reason of any act or omission on the part of this answering defendant.

WHEREFORE, this answering defendant prays for judgment as hereinafter set forth.

AS AND FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff was itself careless and negligent in and about the matters alleged in Plaintiff's Complaint, and in plaintiff's complaint, and that said carelessness and said negligence on said plaintiff's own part legally contributed to the happening of the incident, and to the injuries, losses or damages complained of, if any there were, and said negligence on the part of plaintiff shall diminish its recovery herein, if any, in direct proportion to the extent of such negligence.

AS AND FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff was itself actively careless and actively negligent in and about the matters alleged in plaintiff's complaint, and in plaintiff's complaint, and that said active carelessness and active negligence on said plaintiff's own parts legally contributed to the happening of the incident, and to the injuries, losses or damages complained of, if any there were, and said active carelessness and active negligence on the part of

plaintiff shall absolutely bar its recovery herein.

AS AND FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that if plaintiff has sustained, or will sustain, any of the injuries, losses or damages described in its complaint, which this answering defendant denies, then such injuries, losses or damages were caused solely or in part by the failure of plaintiff to take reasonable steps available to it to mitigate such damages, and to the extent that any such injuries, losses or damages proven by plaintiff were caused by plaintiff's own failure to take reasonable steps available to it to mitigate such damages, they shall not be recoverable against this answering defendant.

AS AND FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that if plaintiff has suffered any of the injuries, losses or damages described in its complaint, which this answering defendant denies, then such injuries, losses or damages were caused solely by the unforeseeable and unreasonable abuse, misuse or alteration of the subject products or improvements, by persons, parties or entities other than this answering defendant, and not by any act or omission for which this answering defendant may be held legally or equitably responsible.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that if plaintiff has suffered any of the injuries, losses or damages described in its complaint, which this answering defendant denies, then such injuries, losses or damages were caused solely by the actionable conduct of persons, parties or entities other than this answering defendant, and not by any act or omission for which this answering defendant may be held legally or equitably responsible.

AS AND FOR A SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by the provisions of Code of Civil Procedure Sections 337, 337.1, 337.15, 338, 339, 340, 343, and each of them.

AS AND FOR A SEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by the failure of plaintiff to give this answering defendant reasonable notice of the alleged breaches of contract or other wrongful conduct as alleged in plaintiff's complaint.

AS AND FOR AN EIGHTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION

THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff has been guilty of unreasonable delay in commencing and in prosecuting the subject civil action, to the irreparable prejudice of defendant, and plaintiff's complaint, and each alleged cause of action therein, is therefore absolutely barred by the equitable doctrine of laches.

AS AND FOR A NINTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH ALLEGED CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by virtue of plaintiff's knowing and voluntary waiver of any further obligations or liabilities of this answering defendant, if any there were.

AS AND FOR A TENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action against this answering defendant.

AS AND FOR AN ELEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for implied contractual indemnity.

AS AND FOR A TWELFTH, SEPARATE AND DISTINCT AFFIRMATIVE

DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff, by and through its conduct, acts and deeds, has caused defendant to change position, and to act to its detriment and prejudice. Plaintiff's complaint, and each alleged cause of action therein, is therefore absolutely barred by the equitable doctrine of estoppel.

AS AND FOR A THIRTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by the doctrine of failure of consideration. Plaintiff has not provided a consideration to which defendant is entitled under the alleged contracts or agreements, if any there were, and there has been no legal justification or excuse for plaintiff's failure to perform. This answering defendant therefore has no further obligations of any kind under said alleged contracts or agreements, if any there were.

AS AND FOR A FOURTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by plaintiff's own failure to perform or satisfy some or all of the conditions

precedent to any further obligations of defendant under the alleged contracts or agreements, if any there were.

AS AND FOR A FIFTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that if plaintiff has suffered, or will suffer, any of the injuries, losses or damages described in its complaint, which this answering defendant denies, then such injuries, losses or damages were caused solely by the voluntary and knowing, or implied, assumption of the risk or risks attendant to the matters complained of or alleged in plaintiff's complaint, and such knowing and voluntary, or implied, assumption of the risk absolutely bars or reduces plaintiff's right to recovery herein, if any there be, in proportion to such voluntary and knowing, or implied, assumption of risk.

AS AND FOR A SIXTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff has been guilty of inequitable conduct with respect to the matters alleged in plaintiff's complaint, and in plaintiff's complaint, and such inequitable conduct shall absolutely bar plaintiff's recovery herein under the equitable doctrine of unclean hands.

AS AND FOR A SEVENTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff is in material breach of the contracts or agreements alleged in its complaint, if any there were, and such material breach relieves defendant of any further obligations or liabilities under said alleged contracts or agreements, if any there were.

AS AND FOR A EIGHTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by the failure of plaintiff to give this answering defendant reasonable notice of the alleged breaches of warranty or other wrongful conduct as alleged in plaintiff's complaint.

AS AND FOR A NINETEENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, plaintiff's complaint, and each alleged cause of action appearing therein, fails to state facts, or to allege claims, which would impose joint and several liability for any of the damages claimed by any party against this answering defendant. Any liability of this answering defendant, which liability is expressly denied, would therefore be limited to those injuries, losses or damages, if any there were, for which this answering defendant's actionable conduct, if any, was a primary contributing factor.

AS AND FOR A TWENTIETH, SEPARATE AND DISTINCT AFFIRMATIVE

DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, is absolutely barred by the provisions of Civil Code Sections 1473, 1475, 1476, 1477, and each of them.

AS AND FOR A TWENTY-FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for indemnity or contribution based on an alleged breach of express or implied warranty.

AS AND FOR A TWENTY-SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for total implied indemnity.

AS AND FOR A TWENTY-THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action therein, fails to state facts sufficient to constitute a cause of action for indemnity or contribution based on strict liability.

AS AND FOR A TWENTY-FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each alleged cause of action

therein, fails to state facts sufficient to constitute a cause of action for indemnity or contribution based upon a special relationship.

AS AND FOR A TWENTY-FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each cause of action thereof, fails to allege any privity between plaintiff, and this answering defendant, and such lack of privity shall absolutely bar plaintiff's claims for indemnity or contribution based on an alleged breach of express or implied warranty.

AS AND FOR A TWENTY-SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each cause of action thereof, fails to state facts sufficient to constitute a cause of action for strict liability against this answering defendant.

AS AND FOR A TWENTY-SEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Plaintiff's complaint, and each cause of action thereof, fails to state facts sufficient to constitute a cause of action for breach of implied warranty against this answering defendant.

AS AND FOR A TWENTY-EIGHTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT, AND TO EACH CAUSE OF ACTION THEREOF, THIS ANSWERING DEFENDANT ALLEGES AS FOLLOWS:

Defendant is informed and believes, and upon such information and belief alleges, that if plaintiff has suffered any of the

injuries, losses or damages alleged in its complaint, which this answering cross-defendant denies, then such injuries, losses or damages were caused solely by the project owners', developers' or general contractors' breach of the implied warranty of suitability of the site, plans and specifications for the subject work of improvement, and not by any act or omission for which this answering cross-defendant may be held legally or equitably responsible.

WHEREFORE, this answering cross-defendant prays that plaintiff take nothing, and that this answering cross-defendant be dismissed hence, with its costs of suit incurred herein, and for such other and further relief as the Court may deem just and proper under the circumstances.

Dated: April 16, 1997

LOW, BALL & LYNCH

BY _____
Chester G. Moore, III
Attorney for Defendant
PACIFIC COAST BUILDING PRODUCTS, INC dba ALCAL ROOFING & INSULATION

K:\1013\MP0019\AAC.CGM

PROOF OF SERVICE BY MAIL CCP §1013(a)

I, the undersigned, declare:

I am employed in the County of San Mateo, California. I am over the age of eighteen (18) years and am not a party to the within action; my business address is 10 Twin Dolphin Drive, Suite B-500, Redwood City, California, 94065.

On April 10, 1997, I caused the within ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT to be served by mail, with postage thereon, fully prepaid in the United States mail, at Redwood City, California, addressed as follows:

PLEASE SEE ATTACHED MAILING LIST

I am sufficiently familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. It will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope and placed it for collection and mailing on April 10, 1997, following ordinary business practices.

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

Executed this 10th day of April, 1997, at Redwood City, California.

Theresa Johnston

THERESA JOHNSTON

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
MAILING LIST - MARCH 1997

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Rand L. Chritton, Esq. Donald B. Fornasier, Esq. Archer, McComas, et al. 2033 N. Main Street, Suite 800 Walnut Creek, CA 94596 Telephone (510) 930-6600	C. APARICIO CEMENT CONTRACTOR

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HANSON'S MASONRY, INC.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):	TELEPHONE NO.:	FOR COURT USE ONLY
HOWARD L. CHURCHILL, ESQ., #79872 SCHOFIELD & SCHILLER 100 Pringle Avenue, Suite 510 Walnut Creek, CA 94596	(510) 934-3600	FILED CO. SAN MATEO COUNTY MAR 27 1997 Clerk of the Superior Court By _____ DEPUTY CLERK
ATTORNEY FOR (Name): Cross-Defendant SIERRA LUMBER & FENCE		
Insert name of court and name of judicial district and branch court, if any: SAN MATEO COUNTY SUPERIOR COURT		
PLAINTIFF/PETITIONER: EDGEWATER ISLE HOMEOWNERS' ASSOCIATION, et al. DEFENDANT/RESPONDENT: THE ANDEN GROUP, et al.		
NOTICE OF ENTRY OF DISMISSAL AND PROOF OF SERVICE ☐ Personal Injury, Property Damage, or Wrongful Death ☐ Motor Vehicle ☐ Other ☐ Family Law ☐ Eminent Domain ☒ Other (specify): Equitable Indemnity		CASE NUMBER: 388872

TO ATTORNEYS AND PARTIES WITHOUT ATTORNEYS: A dismissal was entered in this action by the clerk as shown on the Request for Dismissal. *(Attach a copy completed by the clerk.)*

Date: February 24, 1997.

HOWARD L. CHURCHILL
(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

Howard Churchill
(SIGNATURE)

PROOF OF SERVICE

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is:

2. ☒ I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by mailing them, in a sealed envelope with postage fully prepaid, as follows:
   a. ☒ I deposited the envelope with the United States Postal Service.
   b. ☐ I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
   c. Date of deposit: February 26, 1997.
   d. Place of deposit *(city and state)*: Walnut Creek, CA 94596
   e. Addressed as follows *(name and address)*:

      See attached Service List.

3. ☐ I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by personally delivering copies to the person served as shown below:
   Name: Date: Time: Address:

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

Date: February 26, 1997.

Regina Garabedian
(TYPE OR PRINT NAME)

Regina Garabedian
(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) TELEPHONE NO
HOWARD L. CHURCHILL, ESQ., #79872 (510) 934-3600
SCHOFIELD & SCHILLER
100 Pringle Avenue, Suite 510
Walnut Creek, CA 94596
ATTORNEY FOR (Name): Cross-Defendant SIERRA LUMBER & FENCE CO., INC.

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY
FEB 13 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

Insert name of court and name of judicial district and branch court, if any:
SAN MATEO COUNTY SUPERIOR COURT

PLAINTIFF/PETITIONER: EDGEWATER ISLE HOMEOWNERS' ASSOCIATION, et al.
DEFENDANT/RESPONDENT: THE ANDEN GROUP, et al.

CASE NUMBER: 388872

REQUEST FOR DISMISSAL

- [ ] Personal Injury, Property Damage, or Wrongful Death
  - [ ] Motor Vehicle [ ] Other
- [ ] Family Law
- [ ] Eminent Domain
- [x] Other (specify): Equitable Indemnity

— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

1. TO THE CLERK: Please dismiss this action as follows:
   a. (1) [ ] With prejudice (2) [x] Without prejudice

   b. (1) [ ] Complaint (2) [ ] Petition
   (3) [x] Cross-complaint filed by (name): THE ANDEN GROUP on (date): August 25, 1995
   (4) [ ] Cross-complaint filed by (name): on (date):
   (5) [ ] Entire action of all parties and all causes of action
   (6) [x] Other (specify): Cross-Complaint against SIERRA LUMBER & FENCE COMPANY, INC. Each party to bear its own costs of suit.

Date: February 13, 1997.

Marisa L. D'Amico
(TYPE OR PRINT NAME OF [x] ATTORNEY [ ] PARTY WITHOUT ATTORNEY)

BISHOP, BARRY, HOWE, HANEY & RYDER
(SIGNATURE)
Attorney or party without attorney for: The Anden Group
[ ] Plaintiff/Petitioner [ ] Defendant/Respondent
[x] Cross-complainant

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

2. TO THE CLERK: Consent to the above dismissal is hereby given.**
Date:

(TYPE OR PRINT NAME OF [ ] ATTORNEY [ ] PARTY WITHOUT ATTORNEY)
(SIGNATURE)
Attorney or party without attorney for:
[ ] Plaintiff/Petitioner [ ] Defendant/Respondent
[ ] Cross-complainant

** If a cross-complaint—or Response (Family Law) seeking affirmative relief—is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

(To be completed by clerk)

3. [ ] Dismissal entered as requested on (date):
4. [x] Dismissal entered on (date): FEB 13 1997 as to only (name): SEE ABOVE
5. [ ] Dismissal not entered as requested for the following reasons (specify):

6. [ ] a. Attorney or party without attorney notified on (date):
   b. Attorney or party without attorney not notified. Filing party failed to provide
   [ ] a copy to conform [ ] means to return conformed copy

Date: FEB 13 1997 PEGGY THOMPSON Clerk, by _____ Deputy

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Case Name: **Edgewater Isle Homes, et al. v. The Anden Group, et al.**
San Mateo County Superior Court Case No. 388872

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5074

William L. Nagle, SBN 59788
Special Master/Mediator
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Burlingame, CA 94010
(415) 579-1422
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1997 MAR 11 A 11:36

FILED
CLERK OF THE SUPERIOR COURT
BY [signature]
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

DECLARATION OF SERVICE BY MAIL

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served AMENDED PRE-TRIAL ORDER NO. 24 (Endorsed-Filed March 6, 1997) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 6, 1997 at Burlingame, California.

Christine L. Britton

EDGEWATER ISLE HOA v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No. 388872

Proof of Service List

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Marisa D'Amico, Esq. Bishop, Barry, Howe, Haney & Ryder Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111 (415) 421-8550 (415) 362-4730 (Fax)	The Anden Group, Esden Partners, MDG Associates, Ltd., ESR Corporation, TMD Corporation, and Miden Corporation
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John J. Pray, Esq. Law Offices of John J. Carniato 3736 Mt. Diablo Blvd., Suite #300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 (Fax)	O'Brien & Hicks, Inc., O'Brien & Hicks 1988 & Beyond, Ltd., and Gloria Development co., Inc.

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Tara Coatings

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Courtesy Copy

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DANIEL P. BEAVER - CSB#125303
LAW OFFICES OF MICHAEL B. ALLEN
A Professional Corporation
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Telephone: (415) 341-0800
Facsimile: (415) 341-1147

Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

FILED
SAN MATEO COUNTY
MAR 10 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants.	NO. 388872 PROOF OF SERVICE BY MAIL RE: PRE-TRIAL ORDER NO. 25

I, the undersigned, declare:

That I am employed in the County of San Mateo, State of California. I am over the age of eighteen years and not a party to the within cause; my business address is 411 Borel Avenue, Suite 445, San Mateo, California 94402.

That on March 10, 1997, I served **PRE-TRIAL ORDER NO. 25** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Mateo, California, addressed as follows:

SEE ATTACHED PROOF OF SERVICE MAILING LIST

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 10, 1997, at San Mateo, California.

Diane Keirsey

Diane Keirsey

LAW OFFICES OF
MICHAEL B. ALLEN
A PROFESSIONAL CORPORATION
411 BOREL AVENUE, SUITE 445
SAN MATEO, CALIFORNIA 94402
(415) 341-0800

PROOF OF SERVICE MAILING LIST

EDGEWATER ISLE HOMEOWNERS ASSOCIATION (NORTH) v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No 388872

Attorney	Represents
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Sandra L. Fulmer Marisa D'Amico Bishop, Barry, Howe, Haney & Ryder A Professional Corporation Embarcadero Center West 275 Battery Street, 12th Floor San Francisco, CA 94111-3333 (415) 421-8550 (415) 362-4730 FAX	Defendants and Cross-Complainants THE ANDEN GROUP
Thorsten J. Pray Law Offices of John J. Carniato 3736 Mt. Diablo Blvd., Suite 300 Lafayette, CA 94549 (510) 283-1552 (510) 283-9830 FAX	Defendants and Cross-Complainants GLORIA DEVELOPMENT CO., INC. and O'BRIEN & HICKS, INC., O'BRIEN & HICKS 1988 & BEYOND, LTD.
Josh Shinnick Hoge, Fenton, Jones & Appel 60 South Market Street, 14th Floor San Jose, CA 95113 (408) 287-9501 (408) 287-2583 FAX	Defendant O'BRIEN & HICKS, INC.
Albert Blake Roger, Scott & Helmer 900 Veterans Blvd., Suite 430 Redwood City, CA 94063 (415) 365-7700 (415) 365-0677 FAX	Cross-Defendant TARA COATINGS
Norman La Force Law Offices of F. Ross Adkins 25 Pacific Avenue Mall San Francisco, CA 94111 (415) 981-5200 (415) 981-2097 FAX	Co-Counsel Cross-Defendant TARA COATINGS

PROOF OF SERVICE MAILING LIST

Attorney	Represents
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Nancy A. McPherson Holmes, Drevlow, Carmody, Schmidt & Nakano 180 Montgomery Street, Suite 2100 San Francisco, CA 94104 (415) 362-1422 (415) 362-7054 FAX	Co-Counsel for Cross-Defendant SACRAMENTO A-1 DOOR
Helen B. Baumann Law Offices of Eugene L. Bass 495 Seaport Court, Suite 103 Redwood City, CA 94063 (415) 361-1199 (415) 369-4984 FAX	Cross-Defendant SAN CARLOS SHEET METAL WORKS, INC.
Jonathan Margolis Low, Ball & Lynch 10 Twin Dolphin Drive, Suite B-500 Redwood City, CA 94065 (415) 591-8822 (415) 591-8884 FAX	Cross-Defendant ALCAL ROOFING & INSULATION
Michael Meehen, Esq. DPIC Companies, Inc. 100 California Street, Suite 1190 San Francisco, CA 94105 (415) 433-1676 (415) 788-6507 FAX	Cross-Defendants MELVIN LEE & ASSOCIATES and RUTH & GOING, INC.
Donald B. Fornasier Archer, McComas, Breslin, McMahon & Chritton P. O. Box 8035 Walnut Creek, CA 94596 (510) 930-6600 (510) 930-6620 FAX	Cross-Defendant APRICIO CEMENT

PROOF OF SERVICE MAILING LIST

Attorney	Represents
Anthony J. DeMaria Felice & DeMaria 1130 Burnett Ave., Bldg. D, Suite H Concord, CA 94520 (510) 676-5094 (510) 676-0548 FAX	Cross-Defendant GONSALVES & SANTUCCI, INC., dba CONCO CEMENT COMPANY
S. Mitchell Kaplan Gordon & Rees 275 Battery Street, 20th Floor San Francisco, CA 94111 (415) 986-5900 (415) 986-8054 FAX	Cross-Defendant FISK, FIRENZE & McLEAN and DANIEL SMITH PLASTERING, INC.
Joe Thompson Attorney at Law 981 Fremont Street Santa Clara, CA 95050 (408) 984-8555 (408) 292-1061 FAX	Cross-Defendant SIERRA LUMBER
Howard L. Churchill Schofield & Schiller 100 Pringle Avenue, #510 Walnut Creek, CA 94596 (510) 934-3600 (510) 934-2257 FAX	Cross-Defendant SIERRA LUMBER
Donald L. Sullivan Clapp, Moroney, Bellagamba, Davis & Vucinich 4400 Bohannon Drive, Suite 100 Menlo Park, CA 94025 (415) 327-1300 (415) 327-3707 FAX	Cross-Defendant MISSION DRYWALL OF SAN JOSE and SILVA FENCE COMPANY
David N. Poll Collins & Schlothauer 60 South Market Street, Suite 1100 San Jose, CA 95113-2369 (408) 298-5161 (408) 297-5766 FAX	Co-Counsel for Cross-Defendant SILVA FENCE COMPANY

PROOF OF SERVICE MAILING LIST

EDGEWATER ISLE HOMEOWNERS ASSOCIATION (NORTH) v. THE ANDEN GROUP, et al.
San Mateo County Superior Court Case No 388872

Attorney	Represents
Joseph H. Huber Gassett, Perry & Frank 210 North Fourth Street, Suite 400 San Jose, CA 95112 (408) 295-7034 (408) 295-5799 FAX	Cross-Defendant CROWLEY COMPANY
Scott C. Finch Larson & Burnham P. O. Box 119 Oakland, CA 94604 (510) 444-6800 (510) 835-6666 FAX	Cross-Defendant HANSON'S MASONRY, INC.
Alan H. Finkel Proskauer, Rose, Goetz & Mendelsohn 2121 Avenue of the Stars, Ste. 2700 Los Angeles, CA 90067-5010 (310) 284-5650 (310) 557-2193 FAX	THE ANDEN GROUP (personal counsel)

MICHAEL B. ALLEN - CSB #81550
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LAW OFFICES OF MICHAEL B. ALLEN
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Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

FILED
SAN MATEO COUNTY
MAR 10 1997
Clerk of the Superior Court
By DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	NO. 388872 AMENDMENT TO COMPLAINT (C.C.P. Section 474)

Upon filing the complaint herein, plaintiff being ignorant of the true names of a defendant, and having designated said defendants in the complaint by its fictitious name, to wit: DOES 1 through 13, inclusive, and having discovered the true names of said defendants to be:

DOE 1 - Ruth & Going, Inc.

DOE 2 - Soil Foundation Systems

DOE 3 - Melvin Lee & Associates

DOE 4 - C. Aparicio Cement Contractor

DOE 5 - Fisk, Firenze & McLean

DOE 6 - Sierra Lumber

DOE 7 - Gonsalves & Santucci, Inc., dba Conco Cement Co.

DOE 8 - Mission Drywall of San Jose

DOE 9 - Silva Fence Company

DOE 10 - San Carlos Sheetmetal Works

DOE 11 - AlCal Roofing & Insulation

DOE 12 - Daniel Smith Plastering, Inc.

DOE 13 - Tara Coatings

Plaintiff hereby amends its complaint by inserting such true names in the place and stead of such fictitious names wherever they appear in said complaint.

Dated: March 10, 1997

LAW OFFICES OF MICHAEL B. ALLEN
A Professional Corporation

By _____
MCIHAEL B. ALLEN
Attorneys for Plaintiff
EDGEWATER ISLE HOMEOWNERS ASSOCIATION

LAW OFFICES OF
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WILLIAM L. NAGLE, SBN 59788
Special Master/Mediator
345 Lorton Avenue, Suite 204
Burlingame, CA 94010
(415) 579-0500
(415) 579-0623 (Fax)

FILED
SAN MATEO COUNTY
MAR 10 1997
Clerk of the Superior Court
By
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, Plaintiff, v. THE ANDEN GROUP, et al., Defendants. AND RELATED CROSS-ACTIONS.	NO. 388872 PRE-TRIAL ORDER NO. 25

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that plaintiff may file an Amendment to Complaint, naming cross-defendants in this action not previously named as defendants, as DOE defendants to the Second Amended Complaint as follows:

DOE 1 - Ruth & Going, Inc.

DOE 2 - Soil Foundation Systems

DOE 3 - Melvin Lee & Associates

DOE 4 - C. Aparicio Cement Contractor

DOE 5 - Fisk, Firenze & McLean

DOE 6 - Sierra Lumber

DOE 7 - Gonsalves & Santucci, Inc., dba Conco Cement Co.

DOE 8 - Mission Drywall of San Jose

DOE 9 - Silva Fence Company

DOE 10 - San Carlos Sheetmetal Works

DOE 11 - AlCal Roofing & Insulation

DOE 12 - Daniel Smith Plastering, Inc.

DOE 13 - Tara Coatings

APPROVED AND RECOMMENDED:

Dated: March 6, 1997

William L. Nagle, Special Master

IT IS ORDERED:

Dated: MAR 6 - 1997

Judge of the Superior Court

Superior and Municipal Courts of San Mateo County

Hall of Justice and Records
401 Marshall Street
Redwood City, CA 94063

Peggy Thompson
Court Executive Officer
Clerk & Jury Commissioner

(415) 363- 4711
FAX (415) 363- 4914

DATE: MAR - 7 1997

TO: Howard Churchill, Esq

RE: Case Name: Edgewater Dslo v Anden Grp

Case Number: 388872

Document Title: Notice of entry of dismissal

Dear Mr Churchill

The enclosed documents are being returned without filing for reason(s) checked below:

( ) No fee paid. Amount due: $_____.
( ) Document not signed.
( ) Document not an original.
( ) Proof of service not signed.
( ) Proof of service not in correct format. Please see CRC 201 and attached sample.
( ) At-issue memorandum must be on blue San Mateo County local form.
( ) At-issue memorandum is not appropriate for this case. Please see local rule 2.3(e)(2).
( ) Stipulation for hiatus is not appropriate for this case.
(Only for case filed after July 1, 1992)
( ) Original summons with proof of service not returned.
( ) Incorrect information:
( ) Case Number ( ) Court ( ) County
( ) To facilitate processing of court-related documents, please enclose a stamped, self-addressed envelope of the **appropriate size** for the return of your copies.
(X) Other: The copy of the dismissal must be completed by a deputy clerk before the notice can be filed.

Thank you,
PEGGY THOMPSON
Court Executive Officer/Clerk

By Suzanne C. Allen

none

5074
William L. Nagle, SBN 59788
Special Master/Mediator
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-0500
(415) 579-0623 (Fax)

FILED
SAN MATEO COUNTY
MAR - 6 1997
Clerk of the Superior Court
By _____ DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

EDGEWATER ISLE HOMEOWNERS ASSOCIATION, et al.,

Plaintiff,

v.

THE ANDEN GROUP, et al.,

Defendants,

_____/

AND RELATED CROSS-ACTIONS

_____/

CASE NO. 388872

AMENDED

PRE-TRIAL ORDER NO. 24

BY FAX

The Court having appointed William L. Nagle as Special Master in this matter and good cause appearing therefor,

IT IS HEREBY ORDERED that the Special Master shall hold an all-day Settlement Conference on March 6, 1997 at 9:30 a.m. at the San Mateo County Superior Courthouse, Courtroom 2M, 401 Marshall Street, Redwood City, California.

Principals with authority for the Anden Group, including insurance claims representatives and coverage counsel, for International Insurance Company shall attend unless excused by the Special Master. Counsel Alan Finkel shall attend. Counsel for plaintiff shall attend. Counsel and principals with authority for O'Brien & Hicks shall attend unless excused by the Special Master.

Subcontractors need not attend this Settlement Conference.

APPROVED AND RECOMMENDED:

DATED: February 28, 1997

William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: MAR 5 - 1997

Judge of the Superior Court

FILED BY FAX & FILE