

**CONSTRUCTION****DEFECTIVE CONSTRUCTION**

SETTLEMENT: \$1,505,000.

CASE/NUMBER: Chartwell Homeowners Association v. 44 Third Street Ltd., et al. / CV814851.

COURT/DATE: Santa Clara Superior / Jan. 12, 2007.

MEDIATOR: Anne M. Lawlor Goyette.

ATTORNEYS: Plaintiff - John R. Browne, III (Law Offices of John R. Browne, III, San Francisco).

Defendant - Wallace E. Smith (Carroll, Burdick & McDonough, LLP, Walnut Creek) for 44 Third Street LTD. LP; David S. Henningson, Chad E. Starkey (Robinson & Wood, Inc., San Jose) for Webcor Builders, Inc.; Kevin P. McCarthy, Michael E. Ellis (McCarthy & McCarthy, Oakland) for Lawson Roofing Company and Can-Am Plumbing, Inc.; Theodore R. Cercos (Lincoln, Gustafson & Cercos, San Diego) for Lawson Roofing; Jennifer Sommers (Law Offices of Mark R. Mittelman, Walnut Creek) for Global Coatings; Mark W. Shem (Borton, Petrini & Conron, LLP, San Jose) for Global Coatings; David J. Streza (Bradley, Curley, Asiano, Barrabee & Crawford, P.C., Larkspur); James G. Lucier (Clapp, Moroney, Bellagamba & Vucinich, San Bruno) for Jonce Thomas Construction; Marcia A. Pollioni (Law Office Jeffrey F. Paccassi, San Francisco); Thomas J. Dawson (Law Offices of Thomas J. Dawson, Walnut Creek) for Cedar Valley Shingle Systems; Carla V. Minnard (Sher Minnard LLP, Walnut Creek) for Cedar Valley Shingle Systems; Christian F. LaMond (Koltesky, Mancini, Feldman & Morrow, Los Angeles) for Cedar Valley Shingle Systems; David A. Ericksen, Bruce N. Furukawa (Severson & Werson, San Francisco) for Emery Rogers & Associates; Jill J. Lifter (Ryan & Lifter, P.C., San Ramon) for Largo Concrete, Inc., sued as Largo Concrete (Roe 5); Steve W. Dollar (Ericksen, Arbuthnot, Kilduff, Day & Lindstrom, Inc., San Jose) for Hans Biland Landscaping;

Todd A. Fischer (Fischer, Norris & Schrader, Monterey) for G&S Drywall, Inc.; Gabriel A. Jackson (Jackson & Wallace, LLP, San Francisco) for E. Turman & Company, Inc.; Thomas R. Gill (Manning & Marder, Kass, Ellrod, Ramirez, LLP, San Francisco) for E. Turman & Company, Inc.; Karren L. Freedman (Joseph Costella & Associates, Walnut Creek); Rhial N. Devine (Law Offices of Dennis A. Babbitts, Walnut Creek) for Norco Windows, a Division of Jeld-Wen, Inc.; Bruce A. Trevithick (Law Offices of Marc Jennings, Oakland); Julie P. Momjian, Richard N. Sieving (Sieving & Momjian, LLP, Sacramento) for Norco Windows, a Division of Jeld-Wen, Inc.; Scott M. Hutchinson (Sieving & Momjian, LLP, Sacramento); Adrienne E. Nordstrom (Clapp, Moroney, Bellagamba & Vucinich, Pleasanton) for Hans Sichelmeier Masonry; William J. Peters (Gordon & Rees, LLP, San Francisco) for Bar Architects; Chester G. Moore, III (Low, Ball & Lynch, Redwood City) for Pacific Coast Building Products, Inc., d.b.a. Alcal Roofing & Insulation; Cameron D. Davis (Wolfe & Wyman, LLP, Walnut Creek) for BRS Construction, Inc.; Lawrence G. Lossing (Lossing & Elston, San Francisco) for Malcolm Drilling.

TECHNICAL EXPERTS:  
 Plaintiff - Daniel Chekene, A.I.A., architecture, Oakland; Pablo Daroux, acoustics, Oakland; Ted Hart, windows, Rancho Murrieta; Kenneth R. Staats, P.E., garage retaining wall, Woodside.

FACTS: Award winning architecturally designed (by Alan Howard, deceased) 27-unit luxury condominium building in Los Altos, in Santa Clara County.

PLAINTIFF'S CONTENTIONS: Defects in exterior cedar shingle cladding installation, defects in subterranean garage wall, defects in water fountain in interior courtyard, defects in private decks and rails, other listed defects.

DEFENDANT'S CONTENTIONS: Disputed that any of the claimed defects were legitimate. Many of Plaintiff's claims were also excessive or had no resultant damage. Plaintiff's also failed to maintain the siding.

RESULT: Case settled for \$1,505,000. Case was settled in principle a month or so before its scheduled trial date of Nov. 6, 2006, following a series of earlier settlement conferences. Settlement was consummated on Jan. 12, 2007.