

**COMMISSIONERS**  
DOUG LITTLE – Interim Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE



05351668

**PATRICIA L. BARFIELD**  
Director  
Corporations Division

**ARIZONA CORPORATION COMMISSION**

Date January 12, 2016

**D.V.C CONSTRUCTION COMPANY, INC**  
8550 NORTH 91<sup>ST</sup> AVE #51  
PEORIA, AZ 85345-8637

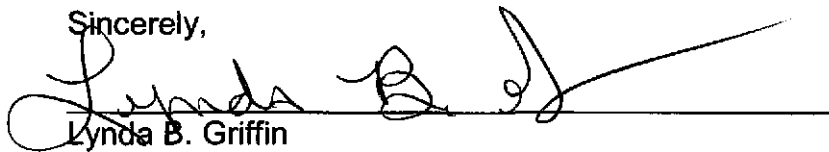
Dear Sir or Madam:

Enclosed is a copy of the following document(s) that were served upon the Arizona Corporation Commission on 01/08/2016 as agent for **D.V.C CONSTRUCTION COMPANY, INC:**

Case caption: **URICA PEETE; etal v. CONTINENTAL HOMES, INC etal,**  
Case number: **CV2014-02028** Court: **PINAL COUNTY SUPERIOR COURT**

- ☒ Summons
- ☒ Complaint
- ☐ Subpoena
- ☐ Subpoena Duces Tecum
- ☐ Default Judgment
- ☐ Judgment
- ☐ Writ of Garnishment
- ☐ Motion For Summary Judgment
- ☐ Motion for
- ☒ Other **DEMAND FOR JURY TRIAL, CERTIFICATE REGARDING EXPERT TESTIMONY, COMPULSORY ARBITRATION**

Sincerely,

  
Lynda B. Griffin  
Custodian of Records

Initials **MLB**  
File number **-0162479-2**



**COMMISSIONERS**  
DOUG LITTLE – Interim Chairman  
BOB STUMP  
BOB BURNS  
TOM FORESE



**JODI JERICH**  
Executive Director

**PATRICIA L. BARFIELD**  
Director  
Corporations Division

**ARIZONA CORPORATION COMMISSION**

**CERTIFICATE OF MAILING**

The undersigned person certifies the following facts:

On **January 8, 2016**, **MARY LEE BLAIR**, an employee of the Arizona Corporation Commission ("ACC"), received on behalf of the ACC service of the following documents upon the ACC as agent for **D.V.C CONSTRUCTION COMPANY, INC.**

Case caption: **URICA PEETE; etal v. CONTINENTAL HOMES, INC etal,**

Case number: **CV2014-02028**

Court: **PINAL COUNTY SUPERIOR COURT**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Summons  | <input type="checkbox"/> Default Judgment    |
| <input checked="" type="checkbox"/> Complaint  | <input type="checkbox"/> Judgment            |
| <input type="checkbox"/> Subpoena  | <input type="checkbox"/> Writ of Garnishment |
| <input type="checkbox"/> Subpoena Duces Tecum  |  |
| <input type="checkbox"/> Motion For Summary Judgment   |  |
| <input type="checkbox"/> Motion for  |  |
| <input checked="" type="checkbox"/> Other <b>DEMAND FOR JURY TRIAL, CERTIFICATE REGARDING EXPERT TESTIMONY, COMPULSORY ARBITRATION</b> |  |

On **January 12, 2016**, the undersigned person placed a copy of the above listed documents in the United States Mail, postage prepaid, addressed to the entity at its last known place of business address, as follows:

**D.V.C CONSTRUCTION COMPANY, INC**  
**8550 NORTH 91<sup>ST</sup> AVE**  
**PEORIA, AZ 85345-8637**

**OR**

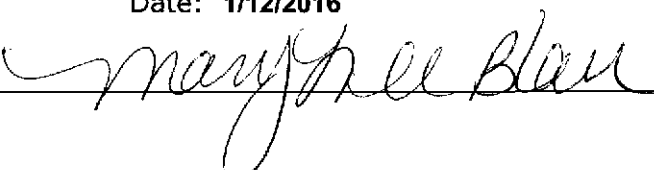
The undersigned was unable to mail the above listed documents to

because that entity is not a registered corporation or limited liability company in the State of Arizona, and the Arizona Corporation Commission has no record of its known place of business.

I declare and certify under penalty of perjury that the foregoing is true and correct.

Printed name: **MARY LEE BLAIR**

Date: **1/12/2016**

Signature: \_\_\_\_\_  




Shorall McGoldrick Brinkmann  
1232 east missouri avenue  
phoenix, az 85014  
602.230.5400  
602.230.5432 (fax)  
smb@smbattorneys.com

Tom Shorall, Jr., #010456  
Jason J. Boblick, #026507  
Attorneys for Defendants/Third-Party Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PINAL

URICA PEETE; et al.,

CV2014-02028

Plaintiffs,

**SUMMONS**

vs.

CONTINENTAL HOMES, INC., a Dela-  
ware corporation, et al.,

(Assigned to the  
Hon. Stephen F. McCarville)

Defendants.

And related third-party action.

**THE STATE OF ARIZONA TO THE DEFENDANT:**

~~**D.V.C. CONSTRUCTION COMPANY, INC.**~~

c/o Robert Rios

**8550 North 91<sup>st</sup> Avenue, Suite 51  
Peoria, Arizona 85345**

**YOU ARE HEREBY SUMMONED** and required to appear and defend, within the time applicable in this action in this court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If served out of the State of Arizona -- whether by direct service, by registered or certified mail, or by publication -- you shall appear and defend within 30 days after the service of the Summons and Complaint upon you is complete, exclusive of the day of service. Where process is served upon the Arizona Di-



rector of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by registered or certified mail without the State of Arizona is complete 30 days after the date of filing the receipt and affidavit of service with the Court. Service by publication is complete 30 days after the date of first publication. Direct service is complete when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing the Affidavit of Compliance and return receipt or Officer's Return. **RCP 4; ARS §§ 20-222, 28-502, 28-503.**

**YOU ARE HEREBY NOTIFIED** that in case of your failure to appear and defend within the time applicable, judgment by default may be rendered against you for the relief demanded in the Complaint.

**YOU ARE CAUTIONED** that in order to appear and defend, you must file an Answer or proper response in writing with the Clerk of this Court, accompanied by the necessary filing fee, within the time required, and you are required to serve a copy of any Answer or response upon the Plaintiffs' attorney. RCP 10(d); A.R.S. §12-311; RCP5.

The name and address of Plaintiff's attorney is:

Thomas Shorall, Jr., Esq.  
Jason J. Boblick, Esq.  
SHORALL McGOLDRICK BRINKMANN  
1232 East Missouri Avenue  
Phoenix, Arizona 85014

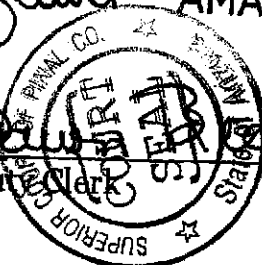
**Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by parties at least five judicial days in advance of a scheduled court proceeding.**

**SIGNED AND SEALED** this date: **OCT 12 2015**

Clerk of Court **AMANDA STANFORD**

By

Deputy Clerk







SEP 14 2015

Shorall McGoldrick Brinkmann

1232 east missouri avenue

phoenix, az 85014

602.230.5400

602.230.5432 (fax)

smb@smbattorneys.com

Tom Shorall, Jr., #010456

Jason J. Boblick, #026507

Attorneys for Defendants/Third-Party Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PINAL

URICA PEETE; LIONEL ALLEN; JAMES  
ANDERSON; BRIAN and MARINA  
CASSITY; JANIS and JOHN COPPOCK;  
BRUCE and JOAN DE HAVEN;  
GERONIMO DE LA CRUZ and AGUSTIN  
AGUIRRE; MARY DECLAIR, RAFAEL  
and JUANA GALLO; TYSON and  
KIMBERLY HAWS; FRANK and  
CHERYL HRON; LINDA JONES;  
DONALD and LYNN KEITH; MICHAEL  
and JUDY LAMB; ASHLEY and  
MICHAEL LAUTZENHEISER; ROY and  
JESSICA LEWIS; TONI MCLAUGHLIN;  
BARRY and CARLA NELSON; MONA  
PAUL; JOLENE RAINER; DON and  
VICKI SMITH; RALPH and CYNTHIA  
TORRACO; BIANCA and AL VENDT;  
GARY and BIRGINIA WALBERG;  
GLENN WEBB and MARCIA MATHERS;  
and WILLIAM and JUNE WOLSKI;  
CHARLES and JANET I. ALDERETE;  
ARTHUR and PATRICIA ALLEN;  
MARILYN ANDERSON; SCOTT  
ANDERSON; GENA ARMAGOST;  
EDDIE and STACEY ARMENTA;  
LAURALIE and JOSEPH BAKONYI, JR.;  
STEVEN and LYDIA N. BARBER; NICK  
BLOUNT; XAVIER and KATHERINE  
BRITO; KYLE and MYRIAN BROWN;

CV2014-02028

ANSWER TO PLAINTIFFS' THIRD  
AMENDED COMPLAINT

AND

FIRST AMENDED THIRD-PARTY  
COMPLAINT

(Assigned to the  
Hon. Daniel A. Washburn)



1 JOEL and DELIA BUCKENTIN; BRIAN  
2 and CHERYL S. BURNS; ANDREA  
3 BUZUNIS; DAVID and PETRONILA  
4 CAMACHO; TINA CARPENTER; JARED  
5 CARRELL; GERMAN CERDA; JOHN  
6 and RENEE CLAUNCH; JOURDAN and  
7 CHARLES CLOUGH III; RONALD and  
8 JANIS COUSINO; ROSA M. DAGGS;  
9 JOHN and PAMELA DAVIDSON; LISA  
10 and RONALD A. DAVIS III, as individu-  
11 als and as trustees for the DAVIS  
12 FAMILY LIVING TRUST; LOIS A.  
13 DESIENA; NANCY A. EHRHART; GENE  
14 and PATRICIA M. EQQEN; THOMAS  
15 ERBLAND and MONICA  
16 SECOREERBLAND; CHUHAN FANG;  
17 KRISTY and CHRIST FELDE, JR.; R.  
18 JEFF and VICKIE FELDERMAN;  
19 BRIDGETTE FITZGERALD; NORMAN  
20 and CYNTHIA FLAKE; RAUL FLORES;  
21 MICHAEL FONTAINE and PATIENCE  
22 MACKEY(FONTAINE); TIM and JUDY  
23 FREESE; CHAD FULLER and ERIN  
24 EPPINGER; SCOTT and AMY  
25 GALBRAITH; LUIS and HAZEL  
26 GARCIA; MICHAEL and KATHLEEN  
GILLELAND; ISMAEL and MARIA  
GONZALEZ as individuals and as trus-  
tees for the GONZALEZ FAMILY TRUST;  
WILLIAM and SANDRA K. GRIESE;  
CHRISTOPHER R. GUY; RANDY HALE;  
KIMBERLY HAMELTON; CHRISTY and  
ANTHONY HARRIS, JR.; DEAN and  
DELORES J. HEINLE as individuals and  
as trustees for the HEINLE FAMILY  
TRUST; JOSE HERNANDEZ; SHERI  
HESS; JIM HETRICK; JASON and  
MANDY HODGSON; B. DEAN and  
ROCHELLE B. HOLMES as individuals  
and as trustees for THE B. DEAN &  
ROCHELLE B. HOLMES TRUST;  
RUSSELL and TEENA HOUCK;  
KATHLEEN JACKSON; ROY and DEB K.



JAKUBOWSKI as individuals and as  
trustees for the JAKUBOWSKI FAMILY  
TRUST; MICHAEL D. JEFFRIES; ROY  
JOHNSON; PAMELA JOHNSON;  
STEVEN JONES and ASHLEY COOK;  
DENNIS and MARIELLA G. KNUDSEN;  
MICHAEL and LINDA LAFUZE; ANDY  
B. LAMASCUS; JAMES M. LAND;  
JESSICA LAWYER; ANDREW and HYU  
SUK LEE; HARLEY and SHARON  
LEVERENZ; GILDA LOPEZ; MARTIN  
and MALENA LORENZO; LUIS and  
ESTELLA LUA; MICHAEL and  
CHRISTINE MAGRI; PAUL  
MAKOWSKI; RONALD and MICHELLE  
MARQUEZ; ANTHONY MARTINEZ;  
DANIEL and DENISE MATUS; KEVIN  
G. MILLER; JASON and JESSICA  
MOFFETT; JIMMIE and MARIA  
MOORE; SHERANDA MORGAN;  
CHARLES and JOANNA NEARPASS;  
JEFF and LORI NELSON; MARY  
NELSON; VANCE and LAURA  
NIELSON; DAVID and CHRISTINE  
OWENS; FAITH PALMER;  
JACQUELINE PEVESTORF; ERICH and  
SHANNON PFLUGFELDER; TRACY  
PRENGEL; TIFFANY and JIM S. PRICE  
III; JERRY and NATALIE  
RICHARDSON; DONNA RIFFEL; JOHN  
RIVERA; RICK ROSALES and CARMEN  
GONZALEZ; LAVELE ROSS; AURELIO  
SANCHEZ-CEPEDA and CYNTHIA R.  
SANCHEZ; CHRISTOPHER and  
MELINDA SCHEURELL; TIM  
SCHWENK; PEDRO SERRANO, JR.;  
DESTIN SIMMONS; MICHAEL and  
DEBORAH A. SIMPSON; RALPH and  
PATRICIA SKOKAN as individuals and  
as trustees for the RALPH & PATRICIA  
SKOKAN 2012 TRUST; ANTHONY and  
JOSETTE SMITH; JAMES SPANIER;  
BOBBY and THERESA STONE; DON P.



1 SYLVESTER; VICTORIANO and  
2 ANGELICA M. TAPIA and JACQUELINE  
3 TAPIA; JAY and LORI TOPCZEWSKI;  
4 GERRY and JUDY J. TORGERSON;  
5 PALMER and SHIRLEY A. TORGERSON  
6 as individuals and as trustees for the PS  
7 & SA TORGERSON FAMILY  
8 REVOCABLE TRUST; MARTINA  
9 VALLE; MARTINA VALLE; ROLF VAN  
10 ISHEM and ANTONINA DIMAGGIO;  
11 JOHN and JACKIE VELASQUEZ;  
12 ANDREW VON REIN; LINDA E.  
13 WATSON; JORJA WATTS;;

14 Plaintiffs,

15 vs.

16 CONTINENTAL HOMES, INC., a Dela-  
17 ware corporation; CHI CONSTRUCTION  
18 COMPANY, an Arizona Corporation;  
19 DRH SOUTHWEST CONSTRUCTION,  
20 INC., a California corporation; and DOES  
21 1-500,

22 Defendants.

23 CONTINENTAL HOMES, INC., a Dela-  
24 ware corporation; CHI CONSTRUCTION  
25 COMPANY, an Arizona Corporation;  
26 DRH SOUTHWEST CONSTRUCTION,  
INC., a California corporation,

Third-Party Plaintiffs,

vs.

ABS INSPECTION GROUP, LLLP, an Ar-  
izona limited liability partnership;  
ADAMS BROS INTERIORS &  
CABINETS, INC., an Arizona corpora-  
tion; AIRTRON, LP, an Arizona limited  
partnership; ALLIED MASONRY, LLC,





1 an Arizona limited liability company;  
2 ALOHA GRADING, INC., an Arizona  
3 corporation; AMERICAN WOODMARK  
4 CORPORATION dba TIMBERLAKE  
5 CABINET COMPANY, an Arizona corpo-  
6 ration; ASPEN BLOCK, LLC, an Arizona  
7 limited liability company; ATRIUM  
8 WINDOWS AND DOORS, INC., an Ari-  
9 zona corporation; AUSTIN ELECTRIC,  
10 INC., an Arizona corporation; BAKKER'S  
11 IRONWORKS, INC., an Arizona corpora-  
12 tion; BANKER INSULATION, INC., an  
13 Arizona corporation; BRETSTAR, INC.,  
14 dba D&M PAINTING, an Arizona corpo-  
15 ration; BREWER ENTERPRISES, INC.,  
16 an Arizona corporation; BUILDER  
17 SERVICES GROUP, INC. dba GALE  
18 CONTRACTOR SERVICES, an Arizona  
19 corporation; BURROWS CONCRETE,  
20 LLC, an Arizona limited liability compa-  
21 ny; CANYON STATE DRYWALL, INC.,  
22 an Arizona corporation; CATALINA  
23 ROOFING AND SUPPLY, INC., an Ari-  
24 zona corporation; CENTURY ROOFING,  
25 INC., an Arizona corporation; CHAS  
26 ROBERTS AIR CONDITIONING, INC.,  
an Arizona corporation; DESERT VISTA,  
INC., an Arizona corporation; DESIGN  
DRYWALL WEST, INC., an Arizona cor-  
poration; DESIGN LIGHTING &  
CONTROLS, INC., an Arizona corpora-  
tion; DIVERSIFIED ROOFING  
CORPORATION, an Arizona corporation;  
DIXON BROTHERS, INCORPORATED,  
an Arizona corporation; DOOR SALES &  
INSTALLATIONS, LLC, an Arizona lim-  
ited liability company; DRRS  
PLUMBING SERVICES, LLC dba EPIC  
PLUMBING and RIGGS PLUMBING, an  
Arizona limited liability company; D.V.C.  
CONSTRUCTION COMPANY, INC., an  
Arizona corporation; EMPIRE  
PLASTERING, LLC, an Arizona limited



1 liability company; ERICKSON  
2 CONSTRUCTION, LLC, an Arizona limited liability company; FOUR PEAKS  
3 GLASS BLOCK AND TILE, INC., an Arizona corporation; GECKO  
4 UNDERGROUND UTILITIES, LLC, an Arizona limited liability company;  
5 GENERAL PLUMBING, INC., an Arizona corporation; HOLMES-HALLY  
6 INDUSTRIES, INC. dba ANOZIRA DOOR SYSTEMS, an Arizona corporation;  
7 INFINITY BUILDING PRODUCTS, L.L.C., an Arizona limited liability company;  
8 J.R. MCDADE CO., INC., an Arizona corporation; LEVELLINE FRAMING,  
9 INC., an Arizona corporation; LMC CONSTRUCTION, INC., an Arizona corporation;  
10 MADJ, INC. dba LODI GARAGE DOORS AND MORE, an Arizona corporation;  
11 MESA FULLY FORMED, L.L.C., an Arizona limited liability company;  
12 MPC CONTRACTING COMPANY, INC., an Arizona corporation; NEW  
13 ELECTRIC, INC., an Arizona corporation; NORCRAFT COMPANIES, LP dba  
14 MID CONTINENT CABINETRY, an Arizona limited partnership; OSBORNE  
15 STUCCO, INC., an Arizona corporation; PALO VERDE PLASTERING, INC., an  
16 Arizona corporation; PARAMOUNT WINDOWS CORPORATION, an Arizona corporation;  
17 POCO VERDE POOLS AND LANDSCAPE, INC., an Arizona corporation;  
18 PORTER JARVIS, LLC dba JADE GRADING, an Arizona limited liability company;  
19 ROADRUNNER DRYWALL CORP., an Arizona corporation;  
20 SOMBRERO PAINTING, INC., an Arizona corporation; SONORAN CONCRETE,  
21 LLC, an Arizona limited liability company; T-C-M MASONRY, INC., an Arizona corporation;  
22 THOMAS ELECTRIC, INC., an Arizona corporation; TOP GRADING



1 & WASTE SERVICES, INC., an Arizona  
2 corporation; TOP LINE  
3 CONSTRUCTION, INC., an Arizona cor-  
4 poration; UNITED FENCE COMPANY,  
5 INC., an Arizona corporation; UNITED  
6 SUBCONTRACTORS, INC. dba MESA  
7 INSULATION, an Arizona corporation;  
8 VALLEY GATE SERVICE, INC., an Ari-  
9 zona corporation; VINTAGE  
10 MILLWORKS, INC., an Arizona corpora-  
11 tion; VISTA ELECTRIC, L.L.C., an Arizo-  
12 na limited liability company; WAYNE-  
13 DALTON CORP., an Arizona corporation;  
14 WESTY'S SOIL COMPACTING CO.,  
15 INC., an Arizona corporation; WRIGHT  
16 CONNECTION PLUMBING, L.L.C., an  
17 Arizona limited liability company; XO  
18 WINDOWS, LLC, an Arizona limited lia-  
19 bility company, BLACK  
20 CORPORATIONS I-XX; WHITE  
21 PARTNERSHIPS I-XX, and DOES 1-XX,

22 Third-Party Defendants.

23 Continental Homes, Inc., dba D.R. Horton – Continental Series, CHI Construc-  
24 tion Company, and DRH Southwest Construction, Inc., (collectively, "Defendants"),  
25 answer Plaintiffs' Third Amended Complaint as follows:

26 1. Answering Paragraphs 1 through 2, Defendants are without knowledge or  
information sufficient to form a belief as to the truth of the allegations therein.

2. Answering Paragraph 3, Defendants admit that the properties described  
therein are part of a residential development commonly referred to as Pecan Creek (the  
"Project"). Defendants deny the remaining allegations in Paragraph 3.

3. Answering Paragraph 4(a), Defendants admit that Continental Homes,



1 Inc., dba D.R. Horton – Continental Series is a Delaware corporation and was the de-  
2 veloper and seller of certain homes at the Project. Defendants deny the remaining alle-  
3 gations in Paragraph 4(a) of the Complaint.

4 4. Answering Paragraph 4(b), Defendants admit that CHI Construction Co.  
5 was the general contractor for construction of certain homes at the Project. Defendants  
6 deny the remaining allegations in Paragraph 4(b) of the Complaint. Defendants affirm-  
7 atively state that CHI Construction Co. is an Arizona corporation.  
8

9 5. Answering Paragraph 4(c), Defendants admit that DRH Southwest Con-  
10 struction, Inc., is a California corporation and was the general contractor for construc-  
11 tion of certain homes at the Project. Defendants deny the remaining allegations in Par-  
12 agraph 4(c) of the Complaint.  
13

14 6. Answering Paragraph 5, Defendants are without knowledge or infor-  
15 mation sufficient to form a belief as to the truth of the allegations therein.

16 7. Answering Paragraphs 6 through 11, Defendants deny the allegations.  
17

18 **FIRST CAUSE OF ACTION**  
19 **(Declaratory Relief)**

20 8. Answering Paragraph 12, Defendants re-allege and incorporate the forego-  
21 ing averments.

22 9. Answering Paragraph 13, Defendants are without knowledge or infor-  
23 mation sufficient to form a belief as to the truth of the allegations therein.

24 10. Answering Paragraphs 14 and 15, Defendants admit that an ADR provision  
25 may be found within some of the contracts related to the Project. Defendants are with-  
26





1 out knowledge or information sufficient to form a belief as to the truth of the remain-  
2 ing allegations therein.

3 11. Answering Paragraphs 16 through 22, Defendants are without knowledge  
4 or information sufficient to form a belief as to the truth of the allegations therein.

5 12. Answering Paragraphs 23 through 26, Defendants are unaware of any af-  
6 firmative allegations being made therein. To the extent anything within those Para-  
7 graphs is construed to be an allegation, Defendants deny all such allegations.  
8

9 **SECOND CAUSE OF ACTION**  
10 **(Breach of the Implied Warranty of Workmanship and Habitability**  
11 **Against All Defendants)**

12 13. Answering Paragraph 27, Defendants re-allege and incorporate the forego-  
13 ing averments.

14 14. Answering Paragraph 28, Defendants admit that certain limited duties of  
15 reasonable care or otherwise, may attach to certain aspects of the work at the Project.  
16 Defendants deny the remaining allegations in 28 of the Complaint.

17 15. Answering Paragraph 29, the allegations call for legal conclusion and are  
18 denied.  
19

20 16. Answering Paragraphs 30 through 40, Defendants deny the allegations  
21 therein.  
22

23  
24  
25 \ \ \

26 \ \ \



**THIRD CAUSE OF ACTION  
(Breach of Contract Against All Defendants)**

17. Answering Paragraph 41, Defendants re-allege and incorporate the foregoing averments.

18. Answering Paragraph 42, Defendants deny the allegations.

19. Answering Paragraph 43, Defendants admit that they entered into contracts with various subcontractors relating to the construction of the Project and that such contracts contained various requirements. Defendants deny the remaining allegations in Paragraph 43.

20. Answering Paragraphs 44 through 46, Defendants deny the allegations therein.

**FOURTH CAUSE OF ACTION  
(Negligence)**

21. Answering Paragraph 47, Defendants re-allege and incorporate the foregoing averments.

22. Answering Paragraph 48, Defendants admit that certain limited duties, of reasonable care or otherwise, may attach to certain aspects of the work at the Project. Defendants deny the remaining allegations in Paragraph 48 of the Complaint.

23. Answering Paragraphs 49 through 55, Defendants deny the allegations therein.

**AFFIRMATIVE DEFENSES**

24. Defendants deny all allegations not expressly admitted herein.

25. The Complaint fails to state a claim upon which relief can be granted.



1           26. Plaintiffs are barred from some or all of their claims by virtue of applicable  
2 statutes of limitations or repose.

3           27. Plaintiffs are barred from some or all of their claims by virtue of applicable  
4 contractual claim limitations, including but not limited to waiver language contained  
5 within the purchase contracts.

6           28. Plaintiffs' right of recovery, if any, is barred or limited by the doctrine of  
7 laches.

8           29. Plaintiffs' proposed repairs constitute economic waste.

9           30. Plaintiffs failed to mitigate their damages, if any, including the failure to  
10 timely assert warranty or insurance claims.

11           31. Defendants are not liable for any damages sustained by Plaintiffs, if any,  
12 that were the result of unforeseeable and uncontrollable acts of God or other forces of  
13 nature.

14           32. Defendants complied with all building codes and regulations, state stat-  
15 utes, and all other requirements related to the design and construction of the subject  
16 properties at the Project.

17           33. Defendants reserve the right to add additional defenses based upon sub-  
18 sequently discovered information, including but not limited to, those affirmative de-  
19 fenses contained within Ariz. R. Civ. P. 8(c) and 12(b).

20           **WHEREFORE**, Continental Homes, Inc., dba D.R. Horton – Continental Se-  
21 ries, DRH Southwest Construction, Inc., and CHI Construction Company request  
22  
23  
24  
25  
26



1 judgment as follows:

2 a. Dismissing Plaintiffs' Amended Complaint in its entirety and deny-  
3 ing Plaintiffs relief;

4 b. Awarding their taxable costs and attorney fees under A.R.S. §§ 12-  
5 341 and 12-341.01 and/or the contract documents;

6 c. Awarding their expert fees, including but not limited to those fees  
7 awardable under A.R.S. § 12-1361, et seq. and/or the contract documents;

8 d. Awarding any other and further relief as the Court may deem just  
9 and proper.  
10  
11  
12

13 SHORALL MCGOLDRICK BRINKMANN

14 By 

15 Tom Shorall, Jr.

16 Jason J. Boblick

17 Attorneys for Defendants/Third-Party Plaintiffs  
18  
19  
20  
21  
22  
23  
24  
25  
26





### THIRD-PARTY COMPLAINT

Continental Homes, Inc., dba D.R. Horton – Continental Series, CHI Construction Company, and DRH Southwest Construction, Inc. (collectively “Third-Party Plaintiffs”), allege the following:

1. Continental Homes, Inc., dba D.R. Horton – Continental Series is a Delaware corporation authorized to do business and doing business in Maricopa County.

2. CHI Construction Company, is an Arizona corporation authorized to do business and doing business in Maricopa County.

3. DRH Southwest Construction, Inc., is California corporation authorized to do business and doing business in Maricopa County.

4. Third-Party Plaintiffs or their agents contracted the following Third-Party Defendants, who are or were all Arizona or foreign corporations, limited liability companies, partnerships, or sole proprietorships, to provide construction materials and to perform work at the Pecan Creek subdivision located in San Tan Valley within the County of Pinal (the “Project”):

- a. ABS Inspection Group, LLLP
- b. Adams Bros Interiors & Cabinets, Inc.
- c. Airtron, LP
- d. Allied Masonry, LLC
- e. Aloha Grading, Inc.
- f. American Woodmark Corporation d/b/a Timberlake Cabinet Company
- g. Aspen Block, LLC
- h. Atrium Windows and Doors, Inc.
- i. Austin Electric, Inc.
- j. Bakker's Ironworks, Inc.
- k. Banker Insulation, Inc.
- l. Bretstar, Inc. d/b/a D & M Painting



- m. Brewer Enterprises, Inc.
- n. Builder Services Group, Inc. d/b/a Gale Contractor Services
- o. Burrows Concrete, LLC
- p. Canyon State Drywall, Inc.
- q. Catalina Roofing and Supply, Inc.
- r. Century Roofing, Inc.
- s. Chas Roberts Air Conditioning, Inc.
- t. Desert Vista, Inc.
- u. Design Drywall West, Inc.
- v. Design Lighting & Controls, Inc.
- w. Diversified Roofing Corporation
- x. Dixon Brothers, Incorporated
- y. Door Sales & Installations, LLC
- z. DRRS Plumbing Services, LLC d/b/a Epic Plumbing and Riggs Plumbing
- aa. D.V.C. Construction Company, Inc.
- bb. Empire Plastering, LLC
- cc. Erickson Construction, LLC
- dd. Four Peaks Glass and Block Tile, Inc.
- ee. Gecko Underground Utilities, LLC
- ff. General Plumbing, Inc.
- gg. Holmes-Hally Industries, Inc. d/b/a Anozira Door Systems
- hh. Infinity Building Products, L.L.C.
- ii. J.R. McDade Co., Inc.
- jj. Levelline Framing, Inc.
- kk. LMC Construction, Inc.
- ll. MADJ, Inc., dba Lodi Garage Door & More
- mm. Mesa Fully Formed, LLC
- nn. MPC Contracting Company, Inc.
- oo. New Electric, Inc.
- pp. Norcraft Companies, LP d/b/a Mid Continent Cabinetry
- qq. Osborne Stucco, Inc.
- rr. Palo Verde Plastering, Inc.
- ss. Paramount Windows, LLC
- tt. Poco Verde Landscape, Inc. d/b/a Poco Verde Pools and Landscape, Inc.
- uu. Porter Jarvis, LLC d/b/a Jade Grading
- vv. Roadrunner Drywall Corp.
- ww. Sombrero Painting, Inc.
- xx. Sonoran Concrete, LLC
- yy. T-C-M Masonry, Inc.
- zz. Thomas Electric, Inc.
- aaa. Top Grading & Waste Services, Inc.



1           bbb. Top Line Construction, Inc.  
2           ccc. United Fence Company, Inc.  
3           ddd. United Subcontractors, Inc. d/b/a Mesa Insulation Specialists  
4           eee. Valley Gate Services, Inc.  
5           fff. Vintage Millworks, Inc.  
6           ggg. Vista Electric, L.L.C.  
7           hhh. Wayne Dalton Corp.  
8           iii. Westy's Compacting Co., Inc.  
9           jjj. Wright Connection Plumbing, L.L.C.  
10          kkk. XO Windows, LLC

11          5.     The Court has personal and subject-matter jurisdiction and is the proper  
12          venue for the Third-Party Complaint.

13          6.     The Plaintiffs in the underlying lawsuit all own residences within the Pro-  
14          ject and allege construction defects related to, arising out of, or resulting from the  
15          Third-Party Defendants' respective work at those residences.

16          7.     The defects that the Plaintiffs allege are subject to amendment but pres-  
17          ently include defects associated with concrete slabs, stucco, roofs, floors, floor cover-  
18          ings, walls, ceilings, drywall, cabinets, doors, windows, sliding-glass doors, shear  
19          walls, concrete flatwork, sheet metal, insulation, electrical systems, HVAC systems,  
20          pavement, plumbing and plumbing fixtures, irrigation systems, soils, grading, fram-  
21          ing, stairs, foundations, garage doors, drainage, paint, fences, trim carpentry, decks,  
22          and structural systems among others.

23          8.     Any defects that Plaintiffs prove necessarily relate to, arise from, or are  
24          the result of all Third-Party Defendants' work implicated by such particular defect(s),  
25          and were directly and proximately caused by those Third-Party Defendants' non-  
26          conforming and unworkmanlike performance, negligence, and carelessness.



1           9.     Each Third-Party Defendant received reasonable notice of the Plaintiffs'  
2 claims and had an opportunity to defend Third-Party Plaintiffs before answering or  
3 otherwise responding to this Third-Party Complaint.

4                               **COUNT ONE**  
5                               **Express Indemnity**

6           10.    Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.

7           11.    Third-Party Defendants entered into subcontracts with one or more  
8 Third-Party Plaintiffs or their agents that expressly obligates each Third-Party De-  
9 fendant to defend, indemnify, and hold harmless Third-Party Plaintiffs from and  
10 against all claims or causes of action either actually or allegedly relating to, arising  
11 from, or resulting from that particular Third-Party Defendant's work.

12           12.    The indemnity agreements referenced in the foregoing paragraph impose  
13 upon each Third-Party Defendant a present duty to defend Third-Party Plaintiffs from  
14 and against any claim or allegation of defects related to, arising from, or resulting from  
15 Third-Party Defendants' respective work at the Project.

16           13.    Each Third-Party Defendant also owes Third-Party Plaintiffs indemnity  
17 against or from any liability that they might incur because of defects related to, arising  
18 from, or resulting from Third-Party Defendants' respective work at the Project.

19           14.    Third-Party Defendants have each breached their duty to defend Third-  
20 Party Plaintiffs and have anticipatorily breached their duty to indemnify Third-Party  
21 Plaintiffs, and thereby have caused and will cause Third-Party Plaintiffs to incur attor-  
22 ney fees, expert fees, litigation costs, liabilities, and other loss associated with Plain-  
23  
24  
25  
26





tiffs' claims.

**COUNT TWO**  
**Breach of Contract/Express Warranty**

15. Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.

16. Third-Party Defendants each promised and expressly warranted to perform their work in a good and workmanlike manner, in compliance with the plans and specifications, applicable building codes, and guidelines of the Arizona Registrar of Contractors, to complete work that is free from defects, and to supply materials that would be new, of merchantable quality, reasonably fit for their intended purpose, and free from faults and defects.

17. To the extent that Plaintiffs prove the defects alleged in their Complaint, then each Third-Party Defendant whose work was implicated by that defect breached the foregoing contractual obligations and express warranties.

18. Third-Party Defendants each promised in their respective contracts to procure \$1.0 million CGL insurance coverage and to have Third-Party Plaintiffs made additional insureds under those policies using ISO form CG 2010 11/85, CG 2026 11/85, or their substantial equivalents. To the extent that any particular Third-Party Defendant either failed to procure this insurance or failed to have Third-Party Plaintiffs made additional insured's under the required endorsements, it has breached this promise.

19. Third-Party Defendants' breaches and anticipatory breaches have caused and will cause Third-Party Plaintiffs to incur attorney fees, expert fees, litigation costs,



1 liabilities, and other loss associated with Plaintiffs' claims.

2 **COUNT THREE**  
3 **Breach of Implied Warranty of Workmanship**

4 20. Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.

5 21. Third-Party Defendants impliedly warranted that all materials and prod-  
6 ucts they supplied would be new, of merchantable quality, and reasonably fit for its in-  
7 tended purpose and that the work and labor performed under their respective con-  
8 tracts would be done in a careful and workmanlike manner in conformance with Ari-  
9 zona construction standards and practices.

10  
11 22. To the extent that Plaintiffs prove the defects alleged in their Complaint,  
12 then each Third-Party Defendant whose work was implicated by that defect breached  
13 the foregoing implied warranties.

14 23. All such breaches of the implied warranties have caused and will cause  
15 Third-Party Plaintiffs to incur attorney fees, expert fees, litigation costs, liabilities, and  
16 other loss associated with Plaintiffs' claims.

17  
18 **COUNT FOUR**  
19 **Negligence**

20 24. Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.

21 25. Third-Party Defendants each owed a duty to Third-Party Plaintiffs to ex-  
22 ercise reasonable care in the performance of their work.

23 26. All defects that Plaintiffs prove arose from the implicated Third-Party De-  
24 fendants' breach of the duty of care.

25  
26 27. To the extent that any such breach caused damage to other property,



1 components, or work, the implicated Third-Party Defendant is liable in negligence for  
2 all damages flowing therefrom, including attorney fees incurred defending the Plain-  
3 tiffs' claims, expert fees, litigation costs, liabilities, and other loss associated with  
4 Plaintiffs' claims.

5  
6 **COUNT FIVE**  
**Common Law/Implied Indemnity**

7 28. Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.  
8 Third-Party Plaintiffs are entirely without active fault with regard to the acts or omis-  
9 sions giving rise to the Plaintiffs' claims.  
10

11 29. To the extent that any Third-Party Defendant did not enter into an ex-  
12 press indemnity agreement with Third-Party Plaintiffs, Third-Party Plaintiffs are enti-  
13 tled to common-law or implied indemnity for any liability arising out of or related to  
14 that Third-Party Defendant's work.  
15

16 **COUNT SIX**  
**Declaratory Judgment**

17 30. Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.  
18

19 31. A justiciable controversy exists between Third-Party Plaintiffs and Third-  
20 Party Defendants regarding whether Third-Party Defendants owe a present to duty to  
21 defend under their respective express indemnity agreements, and the scope of their  
22 duties to indemnify.

23 32. Third-Party Plaintiffs request a judicial declaration determining the par-  
24 ties' respective rights and obligations under the express indemnity agreements.  
25  
26



**COUNT SEVEN**  
**Demand for Arbitration**

33. Third-Party Plaintiffs re-allege and incorporate the foregoing allegations.

34. Each Third-Party Defendants' contract with Third-Party Plaintiffs includes a binding arbitration provision applicable to the disputes and issues raised by this lawsuit.

35. This Third-Party Complaint was filed in part to toll or stop the running of the limitations and repose periods applicable to Third-Party Plaintiff's claims. It was also filed in the alternative in the event that the arbitration provisions are deemed unenforceable.

36. Third-Party Plaintiffs request an Order compelling Third-Party Defendants to arbitrate in accordance with A.R.S. § 12-3007 and the arbitration provisions.

37. Third-Party Plaintiffs request an Order from the Court for interim remedies in accordance with A.R.S. § 12-3008 to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

**WHEREFORE**, Continental Homes, Inc., dba D.R. Horton – Continental Series and CHI Construction Company request judgment as follows:

a. For their direct and consequential damages in an amount to be proven or, in the alternative, for an order compelling arbitration;

b. For their taxable costs and attorney fees in accordance with A.R.S. § 12-341.01 and/or the contract documents;





1 c. For a declaration of the parties' respective rights and obligations  
2 under the indemnity agreements and contract documents; and

3 d. For such other relief as this Court deems appropriate.  
4

5 DATED this 9th day of September, 2015.  
6

7 SHORALL MCGOLDRICK BRINKMANN

8  
9 By 

10 Tom Shorall, Jr.

11 Jason J. Boblick

12 Attorneys for Defendants/Third-Party Plaintiffs  
13

14 ORIGINAL filed this  
15 9th day of September, 2015 with

16 Clerk of Court  
17 Pinal County Superior Court  
18 971 Jason Lopez Circle, Building A  
19 Florence, AZ 85132

20 COPY of the foregoing sent via US Mail  
21 this 9th day of September, 2015 to:

22 Luke P. Ryan, Esq., SBN 022675  
23 Shinnick & Ryan, LLP  
24 5635 N. Scottsdale Road, Suite 170  
25 Scottsdale, AZ 85250  
26 [azminuteentries@ssllplaw.com](mailto:azminuteentries@ssllplaw.com)  
*Attorneys for Plaintiffs*

By: 



JUL 30 2015

SMB

AUG 01 2015

Shorall McGoldrick Brinkmann

1232 east missouri avenue

phoenix, az 85014

602.230.5400

602.230.5432 (fax)

smb@smbattorneys.com

Tom Shorall, Jr., #010456

Jason J. Boblick, #026507

Attorneys for Defendants/Third-Party Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PINAL

URICA PEETE; et al.,

Plaintiffs,

vs.

CONTINENTAL HOMES, INC., a Dela-  
ware corporation, et al.,

Defendants.

And related third-party action.

CV2014-02028

**DEFENDANTS/THIRD-PARTY  
PLAINTIFFS CERTIFICATE RE:  
COMPULSORY ARBITRATION.**

(Assigned to the  
Hon. Daniel A. Washburn)

Continental Homes, Inc., dba D.R. Horton – Continental Series and CHI Con-  
struction Company, through undersigned counsel, state that they agree with Plaintiffs'  
Certificate of Arbitration filed in the above-captioned matter that this case is *not* sub-  
ject to compulsory arbitration.

SHORALL MCGOLDRICK BRINKMANN

By

Tom Shorall, Jr.

Jason J. Boblick

Attorneys for Defendants/Third-Party Plaintiffs



1 ORIGINAL filed this  
2 28<sup>th</sup> day of July, 2015 with

3 Clerk of Court  
4 Pinal County Superior Court  
5 971 Jason Lopez Circle, Building A  
6 Florence, AZ 85132

7 COPY of the foregoing sent via US Mail  
8 this 28<sup>th</sup> day of July, 2015 to:

9 Luke P. Ryan, Esq., SBN 022675  
10 Shinnick & Ryan, LLP  
11 5635 N. Scottsdale Road, Suite 170  
12 Scottsdale, AZ 85250  
13 azminuteentries@ssllplaw.com  
14 *Attorneys for Plaintiffs*

15 By:   
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23  
24  
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JUL 30 2015

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Attorneys for Defendants/Third-Party Plaintiffs

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IN AND FOR THE COUNTY OF PINAL

URICA PEETE; et al.,

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vs.

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ware corporation, et al.,

Defendants.

And related third-party action.

CV2014-02028

**DEFENDANTS/THIRD-PARTY  
PLAINTIFFS CERTIFICATE  
REGARDING EXPERT TESTIMONY**

(Assigned to the  
Hon. Daniel A. Washburn)

Continental Homes, Inc., dba D.R. Horton – Continental Series and CHI Con-  
struction Company, through undersigned counsel and pursuant to Ariz. Rev. Stat. Ann.  
§ 12-2602(A), hereby certify that expert opinion testimony will be necessary to prove  
the allegations against the licensed professionals listed as Defendants and Third-Party  
Defendants in this lawsuit.





SHORALL MCGOLDRICK BRINKMANN

By

  
Tom Shorall, Jr.

Jason J. Boblick

Attorneys for Defendants/Third-Party Plaintiffs

ORIGINAL filed this  
28<sup>th</sup> day of July, 2015 with

Clerk of Court  
Pinal County Superior Court  
971 Jason Lopez Circle, Building A  
Florence, AZ 85132

COPY of the foregoing sent via US Mail  
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[azminuteentries@ssllplaw.com](mailto:azminuteentries@ssllplaw.com)  
*Attorneys for Plaintiffs*

By: 



JUL 30 2015

Shorall McGoldrick Brinkmann

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phoenix, az 85014

602.230.5400

602.230.5432 (fax)

smb@smbattorneys.com

Tom Shorall, Jr., #010456

Jason J. Boblick, #026507

Attorneys for Defendants/Third-Party Plaintiffs

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

## IN AND FOR THE COUNTY OF PINAL

URICA PEETE; et al.,

CV2014-02028

Plaintiffs,

vs.

DEFENDANTS/THIRD-PARTY  
PLAINTIFFS DEMAND FOR JURY  
TRIALCONTINENTAL HOMES, INC., a Dela-  
ware corporation, et al.,

Defendants.

(Assigned to the  
Hon. Daniel A. Washburn)

And related third-party action.

Continental Homes, Inc., dba D.R. Horton – Continental Series and CHI Con-  
struction Company, through undersigned counsel, give notice, pursuant to Rule 38(b),  
Ariz. R. Civ. P., that they demand a trial by jury of any issue triable of right by jury.

SHORALL MCGOLDRICK BRINKMANN

By

Tom Shorall, Jr.

Jason J. Boblick

Attorneys for Defendants/Third-Party Plaintiffs



1 ORIGINAL filed this  
2 28<sup>th</sup> day of July, 2015 with

3 Clerk of Court  
4 Pinal County Superior Court  
5 971 Jason Lopez Circle, Building A  
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12 Scottsdale, AZ 85250  
13 azminuteentries@ssllplaw.com  
14 *Attorneys for Plaintiffs*

15 By:   
16  
17  
18  
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23  
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26



# Liddy Legal Support Services

PO Box 2007, Phoenix, AZ 85001

63 E. Pennington St., #102, Tucson, AZ 85702

2700 Woodlands Village Blvd., #300-420, Flagstaff, AZ 86001

Phoenix 602-297-0676, Tucson 520-628-2824, Flagstaff 928-225-7737

Client File # 051-9240 - Pecan Creek

Account # 0593

Invoice # 246713

Liddy # 175527-1

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF PINAL

URICA PEETE, et al.,

Plaintiff(s),

**AFFIDAVIT OF ATTEMPTED SERVICE  
BY PRIVATE PROCESS SERVER**  
Case No. CV2014-02028

vs

CONTINENTAL HOMES, INC., et al.,

Defendant(s).

STATE OF ARIZONA, County of Maricopa

On 10/12/2015 I received a Summons; Answer to Plaintiff's Third Amended Complaint and First Amended Third Party Complaint; Defendant's/Third Party Plaintiff's Certificate Regarding Compulsory Arbitration; Defendant's/Third Party Plaintiff's Certificate Regarding Expert Testimony; and Defendant/Third Party Plaintiff's Demand for Jury Trial, and in each instance I personally attempted to serve a copy of each document listed on those named below in the manner and at the time and place shown, that all attempts, except where noted were made within Maricopa County, Arizona.

Upon DVC CONSTRUCTION COMPANY, INC., c/o ROBERT RIOS, STATUTORY AGENT at 8550 N. 91st Ave., Suite 51, Peoria, AZ 85345; on 10/13/15 at 11:23am, The doors to this Suite are locked, I spoke with a neighbor who stated the occupants of Suite 51 are rarely in the office, it is a Glass Company. Possible alternate address located on the Internet.

Upon DVC CONSTRUCTION COMPANY, INC., c/o ROBERT RIOS, STATUTORY AGENT at 12475 W. Alice Ave., El Mirage, AZ 85335; On 10/13/15 at 12:25pm, this location is 3JM Management Co. (480-349-4546). A man came out and said that the Henry's (L. George Henry and Pauline A. Henry) own this building as well as 8550 N. 91st Ave., Peoria, AZ, they don't work at either of these locations. No further information provided.

Received from Shorall McGoldrick Brinkman, ( Jason J. Boblick #026507 )

PROCESS SERVER: Peter D. Ganczewski #7396

The undersigned states: That I am a certified private process server in the county of Maricopa and am an Officer of the Court.

SIGNATURE OF PROCESS SERVER: *Peter D. Ganczewski*

Date: 10/15/2015

Item	Amount
Mileage	\$50.40
Minimum Mileage	\$16.00
Affidavit/Notary	\$10.00

Total \$76.40

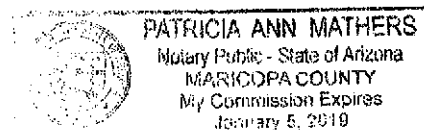
Subscribed and sworn before me on 10/15/2015

*Patricia Ann Mathers*

Patricia Ann Mathers

Notary Public  
My Commission Expires  
January 5, 2019

Tax ID# 90-0533870







CORPORATIONS DIVISION  
RECORDS SECTION  
1300 West Washington  
Phoenix, Arizona 85007-2929

User Id: MLEEBLAI  
Invoice No.: 4951345

Check Batch:  
Invoice Date: 01/08/2016  
Date Received: 01/08/2016  
Customer No.:

ATTN:  
(CASH CUSTOMER)

Quantity	Description	Amount
1	SERVICE OF PROCESS -0162479-2 D.V.C. CONSTRUCTION COMPANY, INC.	\$25.00
Total Documents: \$		25.00
	CHECK 8581	\$25.00
	PAYMENT	
Balance Due: \$		0.00



Corporate Inquiry

01/08/2016

State of Arizona Public Access System

9:37 AM

File Number: -0162479-2

Corp. Name: D.V.C. CONSTRUCTION COMPANY, INC.

-----  
Domestic Address

8550 NORTH 91ST AVE

STE 51

PEORIA, AZ 85345-8637

Second Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

-----  
Agent: ROBERT RIOS

Status: APPOINTED 09/17/2002

Mailing Address:

8550 NORTH 91ST AVE

STE 51

PEORIA, AZ 85345-8637

Agent Last Updated: 02/19/2015

Business Type: CONSTRUCTION

Domicile: ARIZONA

County: MARICOPA

Corporation Type: PROFIT

Life Period: PERPETUAL

Incorporation Date: 01/25/1984

Approval Date: 02/01/1984

Last A/R Received: 10 / 2014

Date A/R Entered: 01/16/2015

Next Report Due: 10/25/2015

Matthew  
Basham

