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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

NEWPORT VILLAGE CONDOMINIUM
OWNERS ASSOCIATION, a Washington
non-profit corporation,

Plaintiff,

v.

NEWPORT VILLAGE. LLC, a Washington
limited liability company, et al.

Defendants.

NO. 08-2-30394-2 KNT

AMENDED ANSWER OF
DEFENDANTS DENNIS,
CRUTCHER, AND WINDERMERE
REAL ESTATE/WEST CAMPUS,
INC., WITH AFFIRMATIVE
DEFENSES AND CROSS CLAIMS

Defendants Dan Dennis, a single man, and Cheryl Crutcher, a single woman, and Windermere Real Estate / West Campus, Inc. (collectively “responding defendants”), through their counsel of record, answer the plaintiff’s First Amended Complaint. The phrase “insufficient knowledge” in this pleading means “Responding defendants have insufficient knowledge and information upon which to form an answer, and they therefore deny.”

1. With respect to paragraphs 1.1 through 1.13 and 1.17 of the First Amended Complaint, insufficient knowledge.

2. With respect to paragraph 1.14, under the nomenclature that went into effect on July 1, 2010, Dan Dennis is a licensed Washington real estate managing broker, and is not married, and so deny accordingly. Otherwise, admit.

1 3. With respect to paragraph 1.15, under the nomenclature that went into effect on
2 July 1, 2010, Cheryl Crutcher is a licensed Washington real estate broker, and is not married, and
3 so deny accordingly. Otherwise, admit.

4 4. With respect to the first sentence of paragraph 1.16, admit, except that defendants
5 Dan Dennis and Cheryl Crutcher were at all times material to this action independent contractors
6 licensed with Windermere Real Estate / West Campus, Inc. Answering the second sentence of
7 1.16, admit only those “acts and omissions” that are admitted elsewhere in this pleading, but
8 admit that all activities done by Dan Dennis and Cheryl Crutcher that require a real estate license
9 were done in the course and scope of their affiliation with Windermere Real Estate / West
10 Campus, Inc.

11 5. As to paragraph 1.17, insufficient knowledge.

12 6. Answering paragraphs 2.1 and 2.2, admit jurisdiction and proper venue of this
13 court without admitting any wrongdoing by responding defendants.

14 7. Answering paragraphs 3.1 through 4.14, no need to respond as not pertinent to
15 responding defendants. However, responding defendants reserve the right to respond to specific
16 allegations in these paragraphs to the extent they become pertinent to the responding defendants.

17 8. With respect to paragraph 5.1, the foregoing is realleged.

18 9. Deny paragraphs 5.2 through 5.4 insofar as the allegations pertain to responding
19 defendants. Otherwise, insufficient knowledge.

20 10. With respect to paragraphs 5.5 and 5.6, no need to respond as not pertinent to
21 responding defendants. However, responding defendants reserve the right to respond to specific
22 allegations in these paragraphs to the extent they become pertinent to the responding defendants.

23 11. Answering paragraph 5.7, deny the first sentence. As to the second sentence,
24 admit upon information and belief that no architect or engineer report or statement based on such
25 report was included in the public offering statement, but deny any implication that such omission
26 was the fault of responding defendants. Otherwise, insufficient knowledge.

1 12. Answering paragraph 5.8, admit upon information and belief that there was no
2 building enclosure report or statement in the POS but otherwise deny.

3 13. With respect to paragraph 5.9, deny inasmuch as responding defendants deny that
4 they made any such “misrepresentations and omissions”. Otherwise, insufficient knowledge.

5 14. Deny paragraphs 5.10 through 6.5 insofar as the allegations pertain to responding
6 defendants. Otherwise, insufficient knowledge.

7 15. No need to respond to paragraphs 7.1 through 7.14 as they are not pertinent to
8 responding defendants. However, responding defendants reserve the right to respond to specific
9 allegations in these paragraphs to the extent they become pertinent to the responding defendants.

10 13. Deny paragraphs 8.2 through 8.5 insofar as the allegations pertain to responding
11 defendants. Otherwise, insufficient knowledge.

12 14. No need to respond to paragraphs 9.1 through 12.7 as they are not pertinent to
13 responding defendants. However, responding defendants reserve the right to respond to specific
14 allegations in these paragraphs to the extent they become pertinent to the responding defendants.

15 BY WAY OF FURTHER ANSWER, including affirmative defenses, responding
16 defendants allege that plaintiff's claims against responding defendants are barred or reducible
17 because:

18 1. Plaintiff's damages, if any, were caused in whole or in part by its own
19 comparative fault or contributory negligence, or by the fault of plaintiff's members,
20 representatives, or agents other than responding defendants (including inspectors). Such fault or
21 negligence may include, without limitation, failure to properly maintain the units and common
22 elements, failure to properly inspect the units and common elements prior to purchase, and
23 failure to adequately inspect the work of its contractors and subcontractors.

24 2. Plaintiff's damages, if any, were caused in whole or in part by the negligence or
25 fault of other parties or third parties including without limitation the defendant developers and
26 their members, representatives, attorneys, and agents other than responding defendants;

1 inspectors; prior unit owners who resold to plaintiff's constituent members without disclosing the
2 alleged defects; and others.

3 3. Plaintiff's damages, if any, were caused by a superseding intervening cause
4 unrelated to responding defendants.

5 4. Any damages awarded related to cost of repair or restoration should be offset
6 and/or reduced to account for any amount of betterment or increase in market value conferred on
7 plaintiff.

8 5. Plaintiff and its members, representatives, and agents other than responding
9 defendants failed to mitigate its damages, if any.

10 6. Some of plaintiff's constituent members took ownership of units in transactions
11 and conveyances in which the responding defendants had no involvement, and to that extent,
12 plaintiff has no claim against responding defendants, and/or plaintiff's claim if any must be
13 reduced.

14 7. Plaintiff's claims are barred by waiver or estoppel to the extent plaintiff's
15 constituent members inspected, accepted and approved the subject units and common elements
16 with defects, or as otherwise shown by the evidence.

17 8. Plaintiff's claims are barred by the economic loss rule.

18 BY WAY OF FURTHER ANSWER, INCLUDING CROSS CLAIMS, responding
19 defendants (hereinafter also referred to as cross claim plaintiffs) reallege the foregoing and
20 without waiving any previous allegation further allege as follows:

21 1. Defendants Newport Village LLC, Heritage Place Partnership, and Matthew
22 Speights (collectively "cross claim defendants") do business in King County, State of
23 Washington. The subject matter of this action and this cross claim pertains to acts and omissions
24 done by Cross Claim Defendants in King County, State of Washington.

25 2. This Court has personal and subject matter jurisdiction over these cross claims,
26 and venue is appropriate.

1 3. The cross claim defendants, or some of them, constructed the buildings the
2 subject of this lawsuit in the 1980's and then in 2004 renovated or remodeled the buildings and
3 converted them to a condominium.

4 4. In the course of the condominium conversion and preparing to sell the
5 condominium units, the cross claim defendants and/or their attorney prepared a Public Offering
6 Statement.

7 5. Cross claim plaintiffs delivered to all condominium unit buyers or their
8 representatives copies of the Public Offering Statement given them by cross claim defendants.

9 6. Cross claim plaintiffs delivered to all condominium unit buyers or their
10 representatives all information and documents that cross claim defendants provided for such
11 distribution.

12 7. Cross claim defendants were given an inspection report and companion
13 engineering report on the condition of the buildings in March 2005 and were aware of the
14 contents of those reports at that time.

15 8. Cross claim defendants did not give the cross claim plaintiffs the March 2005
16 inspection and engineering reports until after all the units had sold. Cross claim defendants did
17 not disclose to cross claim plaintiffs any of the material information contained in the March 2005
18 inspection and engineering reports, nor did they disclose to cross claim plaintiffs any of the
19 material defects plaintiff now alleges.

20 9. Cross claim plaintiffs have been sued in this action by plaintiff Association based
21 on alleged misrepresentations and nondisclosure of material defects and such other matters as are
22 pleaded in the plaintiff's Amended Complaint or otherwise made a basis of this action.

23 10. Cross claim plaintiffs deny plaintiff's allegations against them. However, if
24 plaintiff obtains a verdict, judgment, or settlement against cross claim plaintiffs, or any of them,
25 then the cross claim plaintiffs should be compensated, either by way of contribution, indemnity,
26 or otherwise, the amount of such verdict, judgment, or settlement plus such additional amounts

1 for damages, costs, and attorney's fees as are supported by the evidence and the law. The basis
2 of such claim includes without limitation that any deficiencies or defects in the condominium
3 buildings were (according to plaintiff) caused or created by the cross claim defendants, and the
4 cross claim defendants either intentionally or negligently withheld from the cross claim plaintiffs
5 the reports and information that were within cross claim defendants' knowledge and possession
6 concerning the condition of the condominium buildings.

7 Responding defendants reserve their right to amend this pleading to assert additional
8 affirmative defenses, cross claims, counterclaims, third party claims, or other claims as the
9 evidence develops.

10 WHEREFORE, responding defendants ask the court for the following relief:

- 11 1. Judgment dismissing all claims against them with prejudice;
- 12 2. If judgment is entered against responding defendants, that such judgment be
13 reduced or barred according to the fault of other persons and entities, whether or not parties to
14 this action, and that judgment be entered against the cross claim defendants in a principal amount
15 to be determined, plus such costs and fees as shall be allowed;
- 16 3. Judgment for taxable costs and such attorney's fees as may be justified; and
- 17 4. For such other relief as the court may deem just, equitable, or otherwise
18 appropriate.

19 DATED this _____ day of _____, 2010.

20 DEMCO LAW FIRM, P.S.

21
22 By _____
23 Philip T. Mattern, WSBA #16986
24 Attorneys for Defendants Dennis, Crutcher,
25 and Windermere Real Estate/West Campus,
26 Inc.