

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Long Grove Property Owners' Association, Inc., in its Corporate Capacity as an Association and as Assignee for and on Behalf of its Members the Homeowners and Assignors, Barbara Rivell, Connie Edwards, Stephen Ballentine, Cathy Ballentine, John Caywood, Martha Caywood, Andrew Pracht, Robert Burgoyne, Mari-Ann Burgoyne, Christopher Woolhouse, Trudie E. Campbell, Long Grove Drive 127, LLC, Miranda Wash, James Mitchell, Lou Mitchell, Ross Neil, Joan Neil, Erica Anderson, Sabine A. Lamarche, Mahjzbeen Abid, Abid Irshad, Stephen Kiner, Teresa Kiner, Keith Brinson, Ronald Tuten, Howard Natenshon, Rosemary Natenshon, Charles Salmonsens, Amanda Salmonsens, Sharon A. Paul, David Rauch, Robert Roeder, Paul Mascheck, James Eden, Wendy Eden, Aprile Hiott, Peter Aragone, Monique Aragone, John Meyer, Regina Meyer, Cindy M Yost, William Schumacher, Sharon Schumacher, Steven Giltner, Frederick Jumper, Caroline Jumper, Pamela Kinkead, Ken D. Forster, Marion Clark, Mike Mascheck, Gail Mascheck, John Long, Estela Long, Joshua Meade, Richard Davis, Dodie Davis, Walter Zeigler, Mary Zeigler, Robert Hennessey, Karen Hennessey, Glenn Hammerbacher, Lenore Hammerbacher, Edward Taillon, Terry Greene, Teresa Greene, Bruce Councell, Chris Donovan, Douglas D'Angelo, Jeffrey Witwer, Jason R. Welch, Laura Kerrigan, Janet Kerrigan, Jacqueline Gombach, Tara Miller, Tisha Halliday, Chris Orr, Amy Evans, Lindsey Nevin, Lyane Wallerius, Patrick Rutledge, Rochelle Rutledge, Doug C. Barnard, Larry Finney, Ben Pelot, Sara Pelot, Margie Swofford, Ron Lanier, Mark W. Gravel, Sandra Gravel, Civie Bumgardner, Beth Bumgardner, Chris Donovan, Timothy H. McMillan, Kerry E. Robinson, Kevin O'Quinn, Margaret Pennell, Barbara Pringle, Meridith

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2011-CP-10-8315

FILED
JULIE J. ARMSTRONG
CLERK OF COURT
MAY -4 PM 4:18

**AMENDED ANSWER OF VISTA
REALTY PARTNERS, LLC AND LONG
GROVE VISTA, LLC TO PLAINTIFFS'
AMENDED COMPLAINT
WITH CROSS-CLAIMS**

Blackwell, Billy Blackwell, John Barr,
Katherine Barr, John McCormick, Patrick H.
Buckley, Craig Brown, Debra Brown, Esse
Quam Videri, LLC, Francis Talbot, Jane
Talbot, Lonnie D. Clayton, Barbara C.
Clayton, Thomas Weber, Linda Weber, Greg
Martin, James Baker, Barbara Baker, Terry
Moss, Deana Moss, Zach Collins, Allison M.
Collins, Ann Elish, Holt Robinson, Kimberlee
Craven, John Craven, Constance Lyda, Lucille
Pochabet, William C. Orr, William Treasurer,
Tobi Treasurer, Francis J. Roberts, Kimberly
Roberts, Walt Panagakos, James Brennan,
Christian Thomsen, Mary Thomsen, Matthew
Pressley, Susan George, Stuart A. Krause,
James A. Brown, Patricia D. Brown, David
Anchor, Stanley Wisneski, Veronica Wisneski,
Sandra Madison, Headacres, Inc., Gary Alley,
Andrew Beard, Irvin Fisher, Adele Fisher,
Robert J. Wielde, Karen M. Wielde, Brandon
Casement, Lea Casement, Robert House, John
B. Thornton, Amanda Rosen, Renee Ward,
Lara Gardiner, Pamela Kinkead, Joel Daurity,
Joyce Freeman, Elizabeth Goodman, Stephanie
Horn, Chad Kurtz, Cindy M. Roberts, Tom
Roberts, Greg Spreng, Ilona R. Bankuty,
Matthew Pressley, Christina Pressley, Aprile
Hiott, Donald Kelly, Yvonne Kelly, Randy
Drew, Derby Drew, Mitch Witherspoon, Joel
Nachman, Barbara Nachman, Jane Beckham,
A&A Wilson, LLC, George M. Tisdale,
Murrell Burnett, Eric Bresnahan, Brynn
Bresnanhan, Erin Nicole Scott, Mellisa
Levinson, Katherine McKinney, Julia
McKinney, Lake Forest Properties,
David Bedard, Sandy Bedard, Thomas R.
Binford, Debi Binford, Stephan Kugelman,
James Nevin, Kathryn Nevin, Victor Suarez,
Edward Greiman, Eunice Greiman, Nicole
Hinske, Joseph Hinske, Shahid Husain,
Forhdiba Husain, David Coley, Jan Beasley,
Teddis Beasley, John W. Adams, Patrick Marr,
Barton Chuck Marr, K&S Ventures, Phillip
Gallagher, Elizabeth Gallagher, Harold Roupe,
Jan Roupe, Ronald Tuten, Brian K. James,
Julie B. James, Kevin Isler, Dennis Taylor,

Janet Taylor, Fred Trombino, Susan Trombino,
Lisa Roberts, Rick Roberts, Steven Moore,
Michael W. Ferguson, Madelein Ferguson,
Donna Freyer, Kenneth Widmaier, Donna
Widmaier, Edward Long, Rhonda Hewitt,
Caroline Walters, Cathy A. Sembower, John
Armstrong, Dorothea Armstrong, Marion
Hajdusek, Daniel Lamonica, Jamie Pope,
Sherrill Holland, Madison Authority, LLC,
Joseph Gasque, Diana Kotlikoff, Kim Hodapp,
Joseph Hodapp Trust, Carveth Kramer, Ina
Kramer, George Jespersen, Barbara Jespersen,
Janet Hilton, Individually and on behalf of all
others similarly situated,

Plaintiffs,

vs.

The Beach Company, Long Grove at Seaside
Farms, LLC, Gulf Stream Construction
Company, Inc., Long Grove Vista, LLC, Vista
Realty Partners, LLC, Apey Quality
Construction, LLC f/d/b/a Vista Realty
Construction, LLC, James, Harwick & Partners
n/k/a JHP Architecture/Urban Design, P.C.,
Sam Mayo d/b/a SCM Construction, Inc., and
Essex Engineering Corporation,

Defendants.

Defendants Vista Realty Partners, LLC (“VRP”) and Long Grove Vista, LLC
(“LGV”), by and through their undersigned attorneys, hereby answering the Plaintiffs’ Amended
Complaint, state as follows:

1. Answering the allegations of Paragraph 1, VRP and LGV admit that Long Grove
Property Owners’ Association is a non-profit corporation organized and existing pursuant to the
laws of the State of South Carolina which has its principle place of business in Charleston
County. VRP and LGV are without knowledge or information sufficient to form a belief as to
the remaining allegations of said Paragraph and, therefore, deny the same and demand strict

proof thereof.

2. VRP and LGV are without knowledge or information sufficient to form a belief as to the allegations of Paragraphs 2 and 3, and, therefore, deny the same and demand strict proof thereof.

3. Upon information and belief, VRP and LGV admit the allegations of Paragraphs 4, 5, 6, and 7.

4. Answering the allegations of Paragraph 8, VRP and LGV admit that LGV is a limited liability company organized and existing under the laws of the State of Georgia and that it converted the subject units from apartments to condominiums. VRP and LGV deny the remaining allegations of said Paragraph and demand strict proof thereof.

5. Answering the allegations of Paragraph 9, VRP and LGV admit that VRP is a limited liability company organized and existing under the laws of the State of Georgia. VRP and LGV deny the remaining allegations of said Paragraph and demand strict proof thereof.

6. VRP and LGV are without knowledge or information sufficient to form a belief as to the allegations of Paragraph 10 and, therefore, deny the same and demand strict proof thereof.

7. Upon information and belief, VRP and LGV admit the allegations of Paragraphs 11, 12, and 13.

8. VRP and LGV deny the allegations of Paragraphs 14 and 15, and demand strict proof thereof.

9. VRP and LGV are without knowledge or information sufficient to form a belief as to the allegations of Paragraphs 16, 17, 18, 19, 20, and 21, and, therefore, deny the same and demand strict proof thereof.

AS TO THE FIRST CAUSE OF ACTION
(Developer Negligence as to The Beach Co., Long Grove at Seaside Farms, LLC, Long Grove Vista, LLC and Vista Realty Partners, LLC)

10. Answering the allegations of Paragraph 22, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

11. VRP and LGV deny the allegations of Paragraphs 23, 24, 25, 26, and 27, and demand strict proof thereof.

AS TO THE SECOND CAUSE OF ACTION
(Developer Breach of Express Warranty as to Defendants The Beach Co., Long Grove at Seaside Farms, LLC, Long Grove Vista, LLC and Vista Realty Partners, LLC)

12. Answering the allegations of Paragraph 28, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

13. VRP and LGV deny the allegations of Paragraphs 29, 30, and 31, and demand strict proof thereof.

AS TO THE THIRD CAUSE OF ACTION
(Developer Breach of Implied Warranty as to The Beach Co., Long Grove at Seaside Farms, LLC, Long Grove Vista, LLC and Vista Realty Partners, LLC)

14. Answering the allegations of Paragraph 32, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

15. VRP and LGV deny the allegations of Paragraphs 33, 34, and 35, and demand strict proof thereof.

AS TO THE FOURTH CAUSE OF ACTION
(Developer Breach of Fiduciary Duty as to Long Grove Vista, LLC and Vista Realty Partners, LLC)

16. Answering the allegations of Paragraph 36, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

17. VRP and LGV deny the allegations of Paragraphs 37, 38, 39, 40, 41, 42 and 43, and demand strict proof thereof.

**AS TO THE FIFTH CAUSE OF ACTION
(Negligence as to the General Contractor – Gulf Stream Construction)**

18. Answering the allegations of Paragraph 44, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

19. The allegations of Paragraphs 45, 46, 47, 48, and 49 assert a cause of action against a party other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

**AS TO THE SIXTH CAUSE OF ACTION
(Breach of Express and Implied Warranty as to Gulf Stream Construction)**

20. Answering the allegations of Paragraph 50, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

21. The allegations of Paragraphs 51, 52, 53, and 54 assert a cause of action against a party other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

**AS TO THE SEVENTH CAUSE OF ACTION
(Negligence as to Defendant SCM Construction and Defendant Apey Quality Construction, LLC f/d/b/a Vista Realty Construction, LLC)**

22. Answering the allegations of Paragraph 55, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

23. The allegations of Paragraphs 56, 57, 58, 59, 60, and 61 assert a cause of action against parties other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

AS TO THE EIGHTH CAUSE OF ACTION
(Breach of Express and Implied Warranty as to Defendant SCM Construction and Defendant Apey Quality Construction f/d/b/a Vista Realty Construction, LLC)

24. Answering the allegations of Paragraph 62, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

25. The allegations of Paragraphs 63, 64, 65, and 66 assert a cause of action against parties other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

AS TO THE NINTH CAUSE OF ACTION
(Negligence as to Defendant Architect James, Harwick & Partners)

26. Answering the allegations of Paragraph 67, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

27. The allegations of Paragraphs 68, 67[sic], and 68 [sic] assert a cause of action against a party other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

AS TO THE TENTH CAUSE OF ACTION
(Breach of Express and Implied Warranty as to Third-Party Defendant Architect James, Harwick & Partners)

28. Answering the allegations of Paragraph 69, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

29. The allegations of Paragraphs 70, 71, and 72 assert a cause of action against a party other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

AS TO THE ELEVENTH CAUSE OF ACTION
(Negligence as to Defendant Essex Engineering)

30. Answering the allegations of Paragraph 73, VRP and LGV incorporate by

reference their previous responses as if repeated herein verbatim.

31. The allegations of Paragraphs 74, 75, and 76 assert a cause of action against a party other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

**AS TO THE TWELFTH CAUSE OF ACTION
(Breach of Warranty as to Essex Engineering)**

32. Answering the allegations of Paragraph 77, VRP and LGV incorporate by reference their previous responses as if repeated herein verbatim.

33. The allegations of Paragraphs 78, 79, and 80 assert a cause of action against a party other than LGV and/or VRP and require no response from these Defendants. To the extent any response is required, VRP and LGV deny the same and demand strict proof thereof.

34. VRP and LGV deny any and all allegations not specifically admitted to hereinabove.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

35. That all claims asserted against Defendants VRP and LGV are barred by the applicable statute of limitations and/or the applicable statute of repose.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

36. Plaintiffs' claims, if any, are barred, or should be reduced, by Plaintiffs' own comparative negligence and recklessness by Plaintiffs' failure to properly maintain the property and to mitigate its damages.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

37. Plaintiffs' claims, if any, are the result of acts and omissions of other entities over whom Defendants VRP and LGV have no control, barring Plaintiffs' claims against Defendants

VRP and LGV.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

38. That all claims are barred by the doctrine of Laches.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

39. Plaintiffs' claims are, upon information and belief, barred as they have failed to make a claim against Defendants VRP and LGV within the applicable warranty period.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

40. That Plaintiffs failed to give Defendants VRP and LGV reasonable notice of the existence of any alleged defects due to faulty workmanship and/or materials and failed to provide Defendants VRP and LGV a reasonable opportunity to correct any such alleged defects.

41. That Plaintiffs' failure to give Defendants VRP and LGV notice of and an opportunity to correct any alleged defects due to faulty workmanship and/or materials constitutes a complete defense to all claims of breach of warranty.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

42. If Plaintiffs sustained injuries and damages in the manner alleged in their Complaint, which injuries and damages are specifically denied by Defendants VRP and LGV, then the alleged injuries and damages were sustained not as the result of any fault, neglect, breach of warranty (express or implied) or want of due care on the part of Defendants VRP and LGV nor of anyone for whose conduct Defendants VRP and LGV are anyway responsible, but solely through the fault, neglect, breach of warranty (express or implied) and want of due care on the part of Plaintiffs all of which will be shown at the trial of this case, and for which Plaintiffs can have no recovery against Defendants VRP and LGV or, in the alternative, for which

Plaintiffs' recovery should be appropriately reduced.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

43. Plaintiffs' claims fail to state facts sufficient to constitute causes of action against Defendants VRP and LGV.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

44. Plaintiffs' claims are barred and/or should be stayed or dismissed by virtue of the Plaintiffs' failure to comply with the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, South Carolina Code §40-59-810-860 (1976 as amended).

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

45. Plaintiffs had a duty to mitigate their damages and failed to do so. Therefore, any recovery should be reduced accordingly.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

46. That even if Defendants VRP and LGV were negligent as alleged in the Plaintiffs' Complaint, which is specifically denied, the acts of Defendants VRP and LGV are not the direct and proximate cause of Plaintiffs' injuries and damages, so as to bar the Plaintiffs from recovery against Defendants VRP and LGV.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

47. Defendants VRP and LGV hereby give notice that they intend to rely upon such other defenses as may become available or appear through discovery or otherwise, or as may be raised by any other party, and hereby reserves the right to amend this Answer to assert any such defenses.

**FURTHER ANSWERING AND BY WAY OF
CROSS-CLAIM AGAINST THE BEACH COMPANY, LONG GROVE AT SEASIDE FARMS,
LLC, AND GULF STREAM CONSTRUCTION CO., INC.:**

48. Defendants VRP and LGV reallege each preceding paragraph of their Answer as if set forth verbatim herein.

49. Upon information and belief, Defendant The Beach Co. ("Beach") is a corporation existing under the laws of the State of South Carolina, and transacts business in the State of South Carolina. Beach was involved in the original development of the subject properties and acted as the exclusive listing agent for the sale of the individual units.

50. Upon information and belief, Defendant Long Grove as Seaside Farms ("LGSF") is a corporation existing under the laws of the State of South Carolina, and transacts business in the State of South Carolina. LGSF was the original developer of the subject properties.

51. Upon information and belief, Defendant Gulf Stream Construction Co., Inc. ("Gulf Stream") is a corporation existing under the laws of the State of South Carolina, and transacts business in the State of South Carolina. Gulf Stream was the general contractor responsible for the construction of the subject properties.

52. Upon information and belief, Defendants Beach, LGSF, and Gulf Stream were responsible for the development, design, construction, construction supervision, and acceptance of work at the subject project.

53. Defendants VRP and LGV have been sued by Plaintiff in the subject action, in which Plaintiff alleges damages resulting from a breach of duties owed.

54. Defendants VRP and LGV have denied liability for the allegations asserted in Plaintiff's Complaint.

FOR A FIRST CROSS-CLAIM:
(Negligence)

55. Defendants VRP and LGB reallege each preceding paragraph of their Answer as if set forth verbatim herein.

56. Beach, LGSF, and Gulf Stream owed a duty to Defendants to provide adequate services in the development, design, construction, construction supervision, and acceptance of work at the subject project.

57. Beach, LGSF, and Gulf Stream breached the duty owed to Defendants, and was therefore negligent, by acts and omissions as set forth in Plaintiff's Amended Complaint and incorporated herein by reference.

58. If Plaintiff is entitled to recovery by judgment or otherwise from Defendants VRP and LGV, which is denied, said recovery would be a direct and proximate result of Beach, LGSF, and Gulf Stream's negligence, entitling Defendants to a judgment against Beach, LGSF, and Gulf Stream in the amount of any monies it is adjudged to owe Plaintiff, or which they pay Plaintiff in settlement of Plaintiff's claims, as well as fees and costs incurred in the investigation, defense, and settlement of this action.

FOR A SECOND CROSS-CLAIM:
(Indemnity)

59. Defendants reallege each preceding paragraph of their Answer as if set forth verbatim herein.

60. To the extent, if any, that Defendants VRP and LGV are held liable to Plaintiffs in this action, such liability would be a direct and proximate result of the wrongful acts, omissions, negligence and/or representations of Beach, LGSF, and Gulf Stream, which has damaged Defendants as VRP and LGV have been subjected to liability, and have incurred consequential damages in having to expend attorneys' fees and costs in defending this action.

61. To the extent, if any, that Beach, LGSF, and Gulf Stream's acts and omissions in

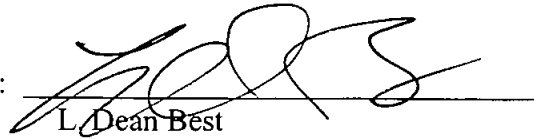
the development, design, construction, construction supervision, and acceptance of work were negligent or defective, such defects and deficiencies would be the result of the breach of the express and implied contractual obligations and warranties that Beach, LGSF, and Gulf Stream provided, damaging Defendants as VRP and LGV have been subjected to liability, and have incurred consequential damages in having to expend attorneys' fees and costs in defending this action.

62. Defendants VRP and LGV are entitled to equitable indemnification from Beach, LGSF, and Gulf Stream for any liability Defendants are found to have to the Plaintiff in this action, and Defendants would be entitled to damages for Beach, LGSF, and Gulf Stream's negligence as afore-described and for Beach, LGSF, and Gulf Stream's breach of their implied and express warranties, entitling Defendants to recover from Beach, LGSF, and Gulf Stream for their attorneys' fees, costs, and other expenses incurred in this action, and entitling Defendants to recover from Beach, LGSF, and Gulf Stream any sums for which it may be held liable to Plaintiffs.

WHEREFORE, VRP and LGV pray that the claims of the Plaintiffs be dismissed with costs, and that they be given judgment against the Plaintiffs to include attorneys' fees, costs, and other expenses incurred in defending this action, and that they be given judgment against the Beach, LGSF, and Gulf Stream to include attorneys' fees, costs, and other expenses incurred in defending this action, and that this matter be tried before a jury, and for such further and other relief as this Court may deem just and proper.

HAYNSWORTH SINKLER BOYD, P.A.

By:



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May of
April

April __, 2012

Charleston, South Carolina.

***Attorneys for Defendants Vista Realty Partners,
LLC and Long Grove Vista, LLC***

11-8315

CERTIFICATE OF SERVICE

I, Mary P. Moody, an employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that a true and correct copy of the foregoing has been provided by U.S.1st Class Mail and via electronic mail only to all other counsel of record, on this __ day of May, 2012, to the following:

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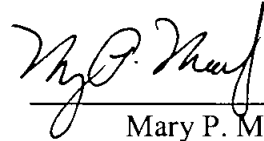
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2012 MAY -4 PM 4:18
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May 4, 2012

BY HAND DELIVERY

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401-2258

Re: Long Grove Property Owners' Association, Inc., *et al.* vs. The Beach Company, *et al.*
Case No.: 2011-CP-10-8315
HSB File No.: 34839-1

Dear Ms. Armstrong:

Please find enclosed for filing with the Court, an original and copy of the Amended Answer of Defendants Vista Realty Partners, LLC and Long Grove Vista, LLC to Plaintiffs' Amended Complaint with Cross-claims in connection with the above-referenced matter. Please file the original and return a filed-stamped copy to me. By copy of this letter, I am providing a copy of same to all other counsel of record. As always, please feel free to contact me if you have any questions regarding the enclosed, or this matter in general.

With kind regards, I am

Yours very truly,



L. Dean Best

LDB/mpm
Enclosures

CC (w/encl /via 1st Class Mail and e-mail):

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David J Parrish, Esquire
Morgan S. Templeton, Esquire/Neil Haldrup, Esquire
Jenna K. McGee, Esquire/Lauren E. Figueroa, Esquire
Kent Stair, Esquire/M. Elizabeth Jowers, Esquire/ John Patrick Norris, Esquire
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