

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4085
Dane W. Anderson, Esq.
Nevada Bar No. 6883
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
Tel: 775-688-3000
Fax: 775-688-3088
danderson@woodburnandwedge.com
Attorneys for Plaintiffs WITS, LLC and
PRESTON HOMES, LLC

RECEIVED
APR 06 2021

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

WITS, LLC., a Nevada limited liability
company and PRESTON HOMES, LLC, a
Nevada limited liability company,

Plaintiffs,

v.

RYDER HOMES OF NORTHERN
NEVADA, INC., a Nevada corporation;
VERSAGRADE, INC., a Nevada corporation;
MANHARD CONSULTING, LTD., an
Illinois corporation; SOMERSETT OWNERS
ASSOCIATION, a Nevada nonprofit
corporation; and DOES 1 through 20,
inclusive,

Defendants.

Case No. CV20-02124
Dept. No. 10

SUMMONS

TO THE DEFENDANT: SOMERSETT OWNERS ASSOCIATION

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 21 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

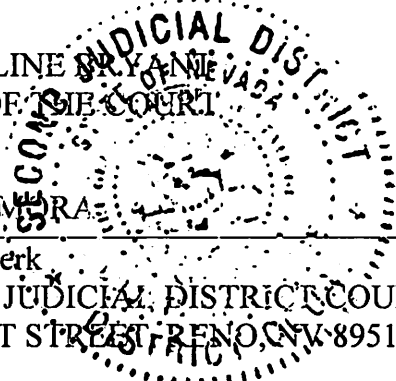
A civil Amended Complaint has been filed by the Plaintiffs against you for the relief as set forth in that document (see Amended Complaint). See Nevada Rules of Civil Procedure, Rule 4(b).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. If you intend to defend this lawsuit, you must do the following within 21 calendar days after service of this summons, exclusive of the day of service:
 - a. File with the Clerk of the court, whose address is shown below, a **formal written answer** to the Amended Complaint, along with the appropriate filing fees, in accordance with the rules of the Court and;
 - b. Serve a copy of your answer upon the attorney of Plaintiffs whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the Plaintiffs and this Court may enter a judgment against you for the relief demanded in the Amended Complaint.

Dated this 5TH day of APRIL, 2021.

JACQUELINE BRYANNE
 CLERK OF THE COURT



By: /S/ AZAM PRA
 Deputy Clerk
 SECOND JUDICIAL DISTRICT COURT
 75 COURT STREET, RENO, NV 89511

Issued on behalf of Plaintiffs:

Dane W. Anderson, Esq.
 Nevada Bar No. 6883
WOODBURN AND WEDGE
 6100 Neil Road, Suite 500
 Reno, Nevada 89511
 Telephone: 775-688-3000
 Facsimile: 775-688-3088
danderson@woodburnandwedge.com
Attorneys for Plaintiffs
WITS, LLC and PRESTON HOMES, LLC

1 **1090**
2 Dane W. Anderson, Esq.
3 Nevada Bar No. 6883
4 **WOODBURN AND WEDGE**
5 6100 Neil Road, Suite 500
6 Reno, Nevada 89511
7 Tel: 775-688-3000
8 Fax: 775-688-3088
9 danderson@woodburnandwedge.com

7 Attorneys for Plaintiffs WITS, LLC and
8 PRESTON HOMES, LLC

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF WASHOE**

11 WITS, LLC., a Nevada limited liability
12 company and PRESTON HOMES, LLC, a
13 Nevada limited liability company,

Case No. CV20-02124

Dept. No. 10

13 Plaintiffs,

14 v.

15 RYDER HOMES OF NORTHERN
16 NEVADA, INC., a Nevada corporation;
17 VERSAGRADE, INC., a Nevada corporation;
18 MANHARD CONSULTING, LTD., an
19 Illinois corporation; SOMERSETT OWNERS
20 ASSOCIATION, a Nevada nonprofit
21 corporation; and DOES 1 through 20,
22 inclusive,

20 Defendants.

22 **AMENDED COMPLAINT**

23 Plaintiffs WITS, LLC, a Nevada limited liability company (“WITS”) and PRESTON
24 HOMES, LLC, a Nevada limited liability company (“PRESTON HOMES”) (sometimes
25 collectively referred to as “Plaintiffs”), complain and allege as follows:

26 ///

27 ///

1 **PARTIES**

2 1. WITS is a Nevada limited liability company with its principal place of business
3 in Washoe County, Nevada.

4 2. PRESTON HOMES is a Nevada limited liability company with its principal
5 place of business in Washoe County, Nevada.

6 3. Defendant Ryder Homes of Northern Nevada, Inc. ("RYDER"), is a Nevada
7 corporation with its principal place of business in Washoe County, Nevada.

8 4. Defendant VersaGrade, Inc. ("VERSAGRADE"), is a Nevada corporation with
9 its principal place of business in Washoe County, Nevada.

10 5. Defendant Manhard Consulting, Ltd. ("MANHARD"), is an Illinois corporation
11 doing business in Washoe County, Nevada.

12 6. Defendant Somersett Owners Association ("SOMERSETT"), is a Nevada
13 nonprofit corporation with its principal place of business in Washoe County, Nevada.

14 7. The true names, capacities, and status, whether individual, corporate,
15 association, partnership, or otherwise, of DOE Defendants 1-20 are unknown to Plaintiffs.
16 Therefore, said Defendants are sued by fictitious names. Plaintiffs are informed and believe,
17 and therefore allege, that each of the Defendants designated as DOES are responsible in some
18 manner for the offenses and happenings referred to in this Amended Complaint and proximately
19 caused the damages to Plaintiffs as herein alleged. DOES 1-20 are the agents, representatives,
20 alter egos, parent companies, and affiliate companies of the other Defendants and each other
21 and are responsible to Plaintiffs for their damages in the same manner as the remaining
22 Defendants. The legal responsibility of said DOES 1-20 arises out of, but is not limited to, their
23 participation in the events described hereafter in this Complaint, and/or their agency,
24 parent/subsidiary, partnership, joint venture or other relationship with the remaining
25 Defendants. Plaintiffs request leave of the Court to amend this Amended Complaint to insert
26 the true names and capacities of said Defendants, when the same have been ascertained, to join
27 such Defendants in this action.

28 ///

1 **JURISDICTION AND VENUE**

2 8. Plaintiffs seek damages which, exclusive of attorney fees and costs, exceed
3 \$15,000.

4 9. This action involves damage to real property owned by Plaintiffs in Reno,
5 Washoe County, Nevada.

6 10. Defendants are all either Nevada companies doing business in Washoe County,
7 Nevada, or foreign companies with offices and/or doing business regularly in Washoe County,
8 Nevada.

9 11. This Court has subject matter jurisdiction over this action and specific personal
10 jurisdiction over the parties.

11 12. Venue is proper in this Court pursuant to NRS 13.040.

12 **GENERAL FACTS**

13 13. WITS and PRESTON HOMES, respectively, own certain real property located
14 in the Somersett development in Reno, Nevada.

15 14. RYDER has developed certain real property in Somersett, some of which is
16 adjacent to property owned by Plaintiffs.

17 15. For the purpose of benefiting its development, RYDER caused to be constructed
18 a retaining wall to stabilize the hill below RYDER'S development. This retaining wall was
19 illegally and surreptitiously constructed on WITS' property, which is intended to be conveyed
20 to Somersett as a common area. This was done because RYDER'S graded lots and adjacent
21 open space were exhibiting signs of failure. RYDER engaged VERSAGRADE and
22 MANHARD to assist it in the evaluation, planning, design, engineering and construction of the
23 retaining wall.

24 16. Upon information and belief, neither RYDER, nor VERSAGRADE nor
25 MANHARD attempted to obtain a permit for the construction of the retaining wall. Upon
26 information and belief, the retaining wall was constructed without a building permit in violation
27 of law. Plaintiffs have requested a copy of the building permit both from Defendants and from
28 the City of Reno but, after numerous requests, no such permit was located or provided.

1 17. SOMERSETT had a duty to investigate the veracity and propriety of RYDER'S
2 application for the proposed construction, and the impact of the proposed construction, and to
3 not enable the illegal and tortious construction of the retaining wall or to facilitate Defendants'
4 intentional and/or reckless disregard of Plaintiffs' property rights. SOMERSETT reviewed and
5 approved RYDER'S application to construct the unpermitted retaining wall on WITS' property
6 without any request or consent of, or any notice to, WITS. SOMERSETT has refused to provide
7 meaningful response to requests for information related to the approval process and/or
8 submittals provided, only highly redacted and useless information.

9 18. Unbeknownst to WITS and PRESTON HOMES, the retaining wall was
10 constructed on WITS' real property which is immediately adjacent to PRESTON HOMES' real
11 property, the latter of which is currently under development for the sale of residential homes.

12 19. The retaining wall was constructed on WITS' property without its permission,
13 and further encroaches upon PRESTON HOMES' lots, significantly impacting the latter's
14 ability to construct homes on these lots as originally designed, perhaps preventing construction
15 altogether. Further, the location and aesthetics of the wall have damaged or will damage
16 PRESTON HOMES' ability to market and sell homes on the damaged lots.

17 20. Defendants have left a substantial amount of excess dirt waste and debris from
18 the construction of the wall on WITS' and PRESTON HOMES' properties, impeding the
19 development of the same, and otherwise has damaged Plaintiffs' properties. Defendants'
20 abandonment of their waste on Plaintiffs' property was done with willful or reckless disregard
21 of Plaintiffs' rights and with malice and oppression towards Plaintiffs.

22 21. It further appears the retaining wall is not structurally sound, impeding
23 PRESTON HOMES' ability to market and sell its lots and creating a substantial safety hazard.
24 It is also a visual abomination, further impacting the marketability and value of Plaintiffs'
25 properties.

26 22. Defendants' conduct has caused WITS and PRESTON HOMES damages in
27 excess of \$15,000.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that this document does not contain the personal information of any individual.

DATED: April 2, 2021.

WOODBURN AND WEDGE

By /s/ Dane Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Plaintiffs
WITS, LLC and PRESTON HOMES, LLC