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ATTORNEY FOR (Name): OPM, Inc. dba Consolidated Roofing

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*Copy & Issue*  
**JAN 15 2016**

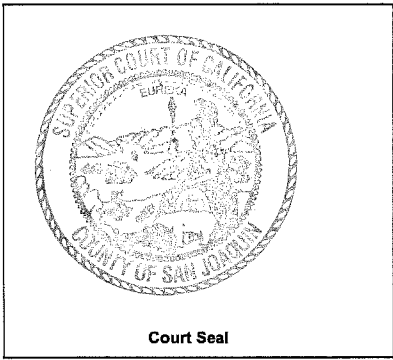
**SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Joaquin**  
STREET ADDRESS: 222 E. Weber Avenue  
MAILING ADDRESS: P.O. Box 201022  
CITY AND ZIP CODE: Stockton, California 95201  
BRANCH NAME: Stockton Courthouse

SHORT TITLE:

**COMMISSION TO TAKE DEPOSITION OUTSIDE CALIFORNIA**  
 ORDERED BY COURT  ISSUED BY THE CLERK OF THE COURT

CASE NUMBER:  
*1509*  
*16-01*

- The Superior Court of California hereby authorizes the deposition, upon oral examination, of (identity of deponent):  
Michael and Linda Flagg *#30*  
*#22948*
- The deposition is to be taken in (state of the United States, territory, or insular possession subject to its jurisdiction):  
Nevada
- The deposition will be conducted (check one):
  - Under the supervision of a person who is authorized to administer oaths by the laws of the United States or those of the place where the examination is to be held, and who is not otherwise disqualified under California Code of Civil Procedure sections 2025.320 and 2025.340(b)-(f); or
  - Before (name of appointee):  
who is appointed to administer oaths and to take testimony.
- The documents or things to be produced at the time and place of the deposition are  
 described in Attachment 4  none.
- Additional terms required by the foreign jurisdiction to initiate the process are contained in Attachment 5. Number of pages attached: \_\_\_\_\_.
- Under California Code of Civil Procedure section 2026.010, California authorizes that a commission to take an out-of-state deposition may be issued by the clerk of the court or, if the foreign jurisdiction requires it, by order of the court.
- The Superior Court of the State of California hereby requests that process issue in the above-referenced place where the examination is to be held, requiring the attendance and enforcing the obligations of the deponent to produce documents and answer questions.



**JAN 15 2016**

Date: \_\_\_\_\_

**ROSA JUNQUEIRO**

Judge  
OR  
 Clerk, by *Rosa Junqueiro* Deputy

RECEIVED  
JAN 15 2016

ROSA JUNQUEIRO, Clerk

*Donna Edwards*  
Deputy Clerk

1 **SUBP**  
2 **SHANNON G. SPLAINE, ESQ.**  
3 Nevada Bar No. 8241  
4 **JENNIFER A. DELCARMEN, ESQ.**  
5 Nevada Bar No. 12727  
6 **LINCOLN, GUSTAFSON & CERCOS, LLP**  
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13 [jdelcarmen@lgclawoffice.com](mailto:jdelcarmen@lgclawoffice.com)

14 Attorneys for Third-Party Defendant,  
15 OPM, INC. d/b/a CONSOLIDATED ROOFING

16 DISTRICT COURT

17 CLARK COUNTY, NEVADA

18 **PARADISE COURT HOMEOWNERS**  
19 **ASSOCIATION, a Nevada non-profit**  
20 **corporation,**

21 Plaintiff,

22 v.

23 **D.R. HORTON, INC., a Delaware foreign**  
24 **corporation; and DOES 1 through 100, inclusive,**

25 Defendants.

26 **D.R. HORTON, INC., a Delaware foreign**  
27 **corporation; and DOES 1 through 100, inclusive,**

28 Third-Party Plaintiff,

v.

**AMERICAN ASPHALT AND GRADING**  
**COMPANY; CAMPBELL CONCRETE OF**  
**NEVADA, INC.; EFFICIENT ENTERPRISES,**  
**INC. dba EFFICIENT ELECTRIC; LUKESTAR**  
**CORPORATION dba CHAMPION MASONRY;**  
**STEWART & SUNDELL CONCRETE, INC.;**  
**GYPSUM CONSTRUCTION, INC.; K and K**  
**PLASTERING, LLC; K and D**  
**CONSTRUCTION, LLC; INFINITY**  
**BUILDING PRODUCTS, LLC; NATIONAL**  
**BUILDERS, INC.; SUNRISE MECHANICAL,**

CASE NO: A590365  
DEPT. NO: XXXI

**SUBPOENA**  
**(Michael & Linda Flagg)**

1 INC.; O.P.M., INC dba CONSOLIDATED  
2 ROOFING; SUMMIT DRYWALL and PAINT,  
3 LLC; SUNSTATE COMPANIES, INC.;  
4 SUNRISE MECHANICAL, INC.; DOES 100  
5 through 150; and ROE CORPORATIONS 101-  
6 150, inclusive,

7 Third-Party Defendants.

8 THE STATE OF NEVADA SENDS GREETINGS TO:

9 Michael & Linda Flagg  
10 2929 White Sand Court  
11 Stockton, CA 95219

12 **YOU ARE HEREBY COMMANDED**, that all and Singular, business and excuses set  
13 aside, you appear and attend on **the 1<sup>st</sup> day of February, 2016, at the hour of 3:00 p.m.** The  
14 address where you are required to appear is Esquire Solutions, located at 2300 W. Sahara Ave., Suite  
15 770, Las Vegas, NV 89102. You are required to bring with you at the time of your appearance any  
16 items set forth in Exhibit "A." If you fail to attend, you will be deemed guilty of contempt of Court  
17 and liable to pay all losses and damages caused by your failure to appear and in addition forfeit One  
18 Hundred dollars (\$100.00).

19 This subpoena is issued pursuant to Rule 45 of the Nevada Rules of Civil Procedure, as  
20 amended effective January 1, 2005. This Rule sets forth specific rights and duties of persons subject  
21 to this subpoena, as set forth below:

22 NRCP 45(c) Protection of persons subject to a subpoena.

23 (1) A party or an attorney responsible for the issuance and service of a subpoena shall  
24 take reasonable steps to avoid imposing undue burden or expense on a person subject to that  
25 subpoena. The Court on behalf of which the subpoena was issued shall enforce this duty and impose  
26 upon the party or attorney in breach of his duty an appropriate sanction, which may include, but is  
27 not limited to, lost earnings and a reasonable attorney's fee.

28 (2) (A) A person commanded to produce and permit inspection and copying of  
designated books, papers, documents or tangible things, or inspection of premises need not appear in  
person at the place of production or inspection unless commanded to appear for deposition, hearing  
or trial.

1 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and  
2 permit inspection and copying may, within 14 days after service of the subpoena or before the time  
3 specified for compliance if such time is less than 14 days after service, serve upon the party or  
4 attorney designated in the subpoena written objection to inspection or copying of any or all of the  
5 designated materials or of the premises. If objection is made, the party serving the subpoena shall  
6 not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order  
7 of the Court by which the subpoena was issued. If objection has been made, the party serving the  
8 subpoena may, upon notice to the person commanded to produce, move at any time for an order to  
9 compel the production. Such an order to compel production shall protect any person who is not a  
10 party or an officer or a party from significant expense resulting from the inspection and copying  
11 commanded.

12 (3) (A) On timely motion, the Court by which a subpoena was issued shall quash or  
13 modify the subpoena if it:

- 14 (i) fails to allow reasonable time for compliance;
- 15 (ii) requires a person who is not a party or an officer of a party to travel to  
16 a place more than 100 miles from the place where that person resides, is employed or regularly  
17 transacts business in person, except that such a person may in order to attend trial be commanded to  
18 travel from any such place within the state in which the trial is held, or
- 19 (iii) requires disclosure of privileged or other protected matter and no  
20 exception or waiver applies, or
- 21 (iv) subjects a person to undue burden.

22 (B) If a subpoena

23 (i) requires disclosure of a trade secret or other confidential research,  
24 development, or commercial information, or

25 (ii) requires disclosure of an unretained expert's opinion or information not  
26 describing specific events or occurrences in dispute and resulting from the expert's study made not at  
27 the request of any party, the Court may, to protect a person subject to or affected by the subpoena,  
28 quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a

1 substantial need for the testimony or material that cannot be otherwise met without undue hardship  
2 and assures that the person to whom the subpoena is addressed will be reasonably compensated, the  
3 Court may order appearance or production only upon specific conditions.

4 NRCP 45(d): Duties in Responding to a subpoena.

5 (1) A person responding to a subpoena to produce documents shall produce them as they  
6 are kept in the usual course of business or shall organize and label them to correspond with the  
7 categories in the demand.

8 (2) When information is subject to a subpoena is withheld on a claim that is privileged or  
9 subject to protection as trial preparation materials, the claim shall be made expressly and shall be  
10 supported by a description of the nature of the documents, communications, or things not produced  
11 that is sufficient to enable the demanding party to contest the claim.

12 Issued by:

13 **LINCOLN, GUSTAFSON & CERCOS, LLP**

14  
15 **SHANNON G. SPLAINE, ESQ.**

Nevada Bar No. 8241

16 **JENNIFER A. DELCARMEN, ESQ.**

Nevada Bar No. 12727

17 3960 Howard Hughes Parkway, Suite 200

18 Las Vegas, NV 89169-5968

Attorneys for Third-Party Defendant,

19 OPM, INC. d/b/a CONSOLIDATED ROOFING

20  
21 v:\p-1\paradise court\_opm\_main\attorney notes\drafts\discovery\20151203\_subp\_1084 slate crossing\_101\_sdi.docx

1 EXHIBIT "A"

2 DOCUMENTS TO BE PRODUCED

3 In addition to your appearance, to the extent that they have not been deposited by the date of  
4 this notice, Third-Party Defendant, OPM, INC. dba CONSOLIDATED ROOFING, hereby requests  
5 that pursuant to N.R.C.P. 30(b)(5) each homeowner bring with them any and all documents listed,  
6 whether electronic or physical, relating to the gift cards received, by homeowners, in exchange for  
7 homeowner participation in destructive testing at Paradise Court whether in the possession of  
8 Plaintiffs themselves or in the possession of their counsel, including the following:

9 1. Any and all non-privileged documents, compilations, materials, and tangible items  
10 regarding the complaints which are the subject of this litigation, including but not limited to:  
11 purchase, sale, title, deeds, correspondence, repairs, remodeling and/or improvements (whether  
12 contemplated or actually performed), alterations, warranties and warranty requests, written  
13 homeowner complaints, memoranda, correspondence to or from Plaintiffs, invoices and repair  
14 contracts, work orders, maintenance agreements, repair bids, repair proposals (whether contemplated  
15 or performed), management or maintenance service agreements, defect disclosures, and any and all  
16 other correspondence, notes and memoranda concerning the maintenance of Plaintiffs' property.

17 2. Plaintiffs are also requested to produce any and all non-privileged documents,  
18 compilations, materials, and tangible items, including but not limited to any and all photographs and  
19 videotapes that depict the alleged defects.

20 3. Any and all non-privileged documents, compilations, materials, and tangible items  
21 Regarding all relevant reports, plans, specifications, technical reports, soil and other engineering  
22 reports and other documents or materials relating to the claim.

23 4. Any and all non-privileged documents, compilations, materials, and tangible items  
24 that support your claims for damages permitted by NRS 40.655, et seq., including but not limited to:

25 (a) Any reasonable attorney's fees;

26 (b) The reasonable cost of any repairs already made that were necessary and of  
27 any repairs yet to be made that are necessary to cure any constructional defect  
28

1 that the contractor failed to cure and the reasonable expenses of temporary  
2 housing reasonably necessary during the repair;

3 (c) The reduction in market value of the residence or accessory structure, if any,  
4 to the extent the reduction is because of structural failure;

5 (d) The loss of the use of all or any part of the residence;

6 (e) The reasonable value of any other property damaged by the constructional  
7 defect;

8 (f) Any additional costs reasonably incurred by the claimant, including, but not  
9 limited to, any costs and fees incurred for the retention of experts to:

10 (1) Ascertain the nature and extent of the constructional defects;

11 (2) Evaluate appropriate corrective measures to estimate the value of loss  
12 of use; and

13 (3) Estimate the value of loss of use, the cost of temporary housing and  
14 the reduction of market value of the residence; and

15 (g) Any interest provided by statute.

16 Plaintiffs are further requested to provide a computation of any and all damages sought as  
17 required by NRCP 16.1 (C).

18 5. Any and all disclosures you have made to anyone that purchased your home,  
19 including any documents, writings, photographs, or materials you provided to them including but not  
20 limited to items required by NRS §40.688, including but not limited to the following:

21 "If a claimant attempts to sell a residence that is or has been the subject of a claim  
22 governed by NRS 40.600 to 40.695, inclusive, the claimant shall disclose, in  
23 writing, to any prospective purchaser of the residence, not less than 30 days  
24 before the close of escrow for the sale of the residence or, if escrow is to close  
25 less than 30 days after the execution of the sales agreement, then immediately  
upon the execution of the sales agreement or, if a claim is initiated less than 30  
days before the close of escrow, within 24 hours after giving written notice to the  
contractor pursuant to NRS 40.645:

26 (a) All notices given by the claimant to the contractor pursuant to NRS 40.600 to  
40.695, inclusive, that are related to the residence;

27 (b) All opinions the claimant has obtained from experts regarding a constructional  
28 defect that is or has been the subject of the claim;

1 (c) The terms of any settlement, order or judgment relating to the claim; and

2 (d) A detailed report of all repairs made to the residence by or on behalf of the  
3 Claimant as a result of a constructional defect that is or has been the subject of  
4 the claim.

5 2. Before taking any action on a claim pursuant to NRS 40.600 to 40.695,  
6 inclusive, the attorney for a claimant shall notify the claimant in writing of the  
7 provisions of this section.”

8 6. Any assignments you have provided to anyone purporting to assign any interest  
9 whatsoever in your claims in this case, your interest in your home that is the subject of this litigation,  
10 and any assignments of any and all claims or claims for your home that is the subject of this  
11 litigation.

12 7. Any and all documents given to you at the time you purchased the home which is  
13 subject to this litigation, including but not limited to any homeowners guide, and any documents  
14 discussing maintenance and care of your home.  
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