

ORIGINAL

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Attorneys for Plaintiff
WILLIAM LYON HOMES, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WILLIAM LYON HOMES, INC.,
a California corporation fka PRESLEY
HOMES

Plaintiffs.

Case No.

COMPLAINT

CHARLES LESLIE PARTINGTON d/b/a
M.C. MOJAVE CONSTRUCTION a/k/a
C D S CONSTRUCTION
DESIGN SPECIALISTS LLC, JOHN
WILSON, individually; and DOE
INDIVIDUALS I-X, inclusive; and ROE
ENTITLES I-X, inclusive,

Defendants.

COMES NOW Plaintiff WILLIAM LYON HOMES, INC. formerly known as
PRESLEY HOMES [hereinafter referred to as "WLH"], by and through their attorney of record
R. CHRISTOPHER READE, ESQ., of the law firm of READE & ASSOCIATES, and hereby
files this Complaint alleging as follows:

Nature of Action and Jurisdiction

State Law Champerty and Maintenance Claim, Intentional Interference with
Contract Relationships, Lanham Act violations pursuant to 15 U.S.C. 1125(a)(1),
Deceptive Trade Violations under NRS 598.0915(1)(2)(3)(4), NRS 598.0923(1),
and NRS 41.600(2)(e), and other state law claims

1 This action arises out of defendants' violations of the Lanham Act, 15 U.S.C.
2 1125(a)(1), including misrepresentations as to affiliation, connection, or association with the
3 plaintiff in conjunction with defendants' services and commercial activities. As a result of
4 defendants' Lanham Act violation, a federal question is presented, and diversity jurisdiction
5 exists pursuant to 28 U.S.C. 1332 and jurisdiction in this Court is appropriate.

6 2. Plaintiff's claims include pendant state causes which include deceptive trade
7 practices under NRS 598.0915(1), (2), (3), and (4), NRS 598.0923(1), and NRS 41.600(2)(e),
8 and violations of Nevada common law.

9
10 3. There is complete diversity between WLH and defendants.

11 4. The amount in controversy exceeds \$75,000. WLH is seeking declaratory relief,
12 and upon that ground alone, the pecuniary effect of an adverse declaration will exceed \$75,000.
13 WLH is also seeking consequential and special damages in excess of \$75,000.

14 **The Parties**

15 5. WLH is a California corporation with its principal place of business in California.

16
17 6. Defendant Charles Leslie Partington (hereinafter "Partington"), d/b/a M.C.
18 Mojave Construction (hereinafter "Mojave") a/k/a C D S Construction Design Specialists LLC
19 (hereinafter "C D S") is a sole proprietor who has operated and continues to operate as Mojave
20 and C D S in violation of Nevada law by relying upon an expired fictitious name certificate.
21 Partington is not licensed to examine any component of a structure or to communicate an
22 inspection report under NRS 645D.080, but holds himself out as "licensed" for that purpose.

23
24 7. While Partington has held a limited, individual B-2 Residential and Small
25 Commercial contractor's license, the services described in this complaint do not constitute
26 construction within the scope of that B-2 license.

27 8. Partington is believed to be a citizen of Nevada.
28

9. Defendant John Wilson (hereinafter "Wilson") is believed to be a similarly unlicensed agent of Mojave who personally communicated misrepresentations and committed statutory violations described hereafter.

10. Wilson is believed to be a citizen of Nevada.

11. The events described herein occurred in Clark County, Nevada.

12. The true names and capacities whether individual, corporate, associate or otherwise, of defendants Doe Individuals I through X are unknown to plaintiff at the present time and plaintiff therefore sues said defendants by such fictitious names. plaintiff is informed and believes and thereupon alleges that each of the defendants designed as Doe Individuals I through X and Roe Entities I through I are responsible in some manner for the events, misconduct, and injuries referred to here. Once discovery has disclosed the identity of such entities and individuals, plaintiff will ask leave of this Court to amend its Complaint to insert the true names and capacities of said defendants and to join such defendants in this action.

Factual Allegations

13. Since 1995 to present, WLH has developed and continues to develop housing communities in the Greater Las Vegas, Nevada area including but not limited to the Kingsway Ridge, Ebbetts Ranch and Belvedere communities (hereinafter collectively referred to as "housing community developments").

14. WLH is obligated to respond to homeowner demands for WLH Corporation's warranty responsibilities within these housing community developments.

15. Partington and Wilson have solicited various homeowners throughout these housing communities to accept a "free" home inspection. Specifically, Partington and Wilson represented that Mojave would only collect a fee if or when the "builder" (a reference to WLH) reimbursed the homeowner as a result of the initiation of a subsequent demand made under NRS

Chapter 40. Mojave's agreements with homeowners for free inspections assign the right to recover any and all inspection fees from the builder as might later be recovered pursuant to NRS 40.655 to Mojave.

16. A demand made under Chapter 40 in the equivalent of a civil action.

17. Mojave's solicitation delivered by Partington and Wilson included the following representations:

a. The new right to repair law in Nevada states that homeowners have the right to be reimbursed for any reasonable cost or fees incurred for legal services and experts in order to ascertain the nature and extent of construction defects. NRS 40.655.

b. Under the new law homeowners have the right to have the builder make the necessary repairs to homes that show code violations or work performed under industry standards.

18. Mojave then informed homeowners of their "options" which included:

(2) INSPECTION TEAMS can help the homeowners through the process by representing the interest of the homeowners when the builder and the subcontractors do their walk through, make sure the repairs are within code requirement or manufacturers specifications; complete the process by doing a final walk through inspection with the homeowners. The law states that you can be reimbursed for any reasonable expert fees. Be sure that the company you hire offers you a **Risk Free Service Agreement**. These companies look to be paid for their services only if you receive reimbursement from the builder. (3) LEGAL FIRMS THAT HANDLE CHAPTER 40 CLAIMS. A law firm can make sure the builder will honor his responsibility and ensure that your legal warranty period is **protected and extended**. The law firm will also hire their inspection teams to protect you from shoddy workmanship by subcontractors. Again make sure that the law firm will sign a **RISK FREE or CONTINGENCY FEE AGREEMENT**.

19. Mojave informed homeowner that "if you are not familiar with a law firm that handles Chapter 40 claims, we can provide the names of three law firms that are willing to help you." Exhibit 1.

20. Mojave's fee agreement, when executed by homeowners, included the following representations:

1 a. Homeowner agrees: to include all MCM invoices for serves rendered on
 2 behalf of homeowner by MCMC to the homebuilder and/or law firm if builder is
 3 represented by such via certified mail with return receipt request; if homeowner
 desires MCMC to send copies of said invoices to the builder and/or legal firm via
 certified mail please initial here

4 b. Terms of payment. MCMC will ONLY collect said fee if or when the
 5 builder reimburses the Homeowner, Homeowner is not responsible to pay the fee
 6 until the Homeowner receives reimbursement from the builder for inspection fees.
 7 However Homeowner assigns to MCMC the right to recover any and all
 inspection fees from the builder if the builder fails to pay all the inspections as
 outlined in NRS 60.645 [sic].

8 Exhibit 2.

9 21. Once Mojave, through Partington and Wilson, have initiated an inspection or
 10 otherwise obtained an owner's consent to conduct an inspection, they then place (and have
 11 placed) placards or stickers in the form of Exhibit 3 on adjacent properties around the
 12 neighborhood. The placard states as follows:

13 ***** NOTICE TO NEIGHBORS ***** As a courtesy, we are informing you that,
 14 due to a 'Builder' home inspection you may experience a few hours of extra
 15 vehicular traffic in your neighborhood. These vehicles belong to representative &
 16 experts from both MC Mojave Construction & your Builder, his subcontractors
 and agents.

17 This inspection has been schedule [sic] for:

18 Once the Builder inspections are concluded, a repair plan and timeframe are
 19 provided to the homeowner for their review and approval. The Builder's repairs
 20 are also 'free' to ALL homeowners under a Chapter 40 claim, even if you are not
 the original homeowner.

21 **If you have any questions or if you want to know if you qualify for a FREE**
 22 **home evaluation Please Call (702) 439-8504.**

23 22. The language of the placard placed by Mojave contains misleading
 24 representations about the nature and characteristics of Mojave's services and wrongfully infers
 25 that the inspection or "free home evaluation" solicited by Mojave in the placard is an inspection
 26 by experts from Mojave and "your Builder". The placard further wrongfully advertises or
 27
 28

1 promotes Mojave's free inspection as identified with or the same as "the Builder inspection" to
2 be followed by "Builder's repairs ... even if you are not the original homeowner."

3 **FIRST CLAIM FOR RELIEF**
4 **(Champerly and Maintenance)**

5 23. WLH repeats and realleges the allegations set forth in Paragraphs 1 through 22 in
6 plaintiff's complaint as though fully set forth herein.

7 24. NRS 1.030 adopts the common law of England for the State of Nevada insofar as
8 it is not repugnant to or in conflict of the constitution of the laws of the United States or the
9 constitution or the laws of the State of Nevada.

10 25. In Nevada, actionable champerly is maintenance with the additional feature of an
11 agreement for the payment of compensation or personal profit from the subject matter of a suit to
12 be maintained against a third party. Maintenance exists when a person without an interest in the
13 suit officiously intermeddles, promotes and assists to prosecute an action wrongfully in an effort
14 to profit from the subject matter of the suit.
15

16 26. Mojave's arrangement made by or through Partington and/or Wilson with the
17 homeowners that have initiated Chapter 40 demands makes possible recovery of fees for Mojave
18 in mediation of the demand or subsequent suit. Mojave was otherwise without an interest in the
19 claim, but Mojave makes it a feature of their agreement for payment for profit ensuring Mojave's
20 payment will be made the subject of the action pursued by the third party.
21

22 27. The agreement of Mojave, Partington and/or Wilson with homeowners is
23 completely illusory except for the recovery the homeowner makes through an action against
24 WLH. Partington (or Wilson), upon information and belief, takes assignments of the
25 homeowners' claims to recover fees, but even that assignment is believed void as the homeowner
26 never incurs liability to Partington and Wilson for the fee in question.
27
28

1 28. Partington, Wilson and Mojave are strangers to any Chapter 40 demand or lawsuit
2 brought by the homeowners against WLH and have contracted for an interest in the recovery in
3 that lawsuit.

4 29. Based on Partington's, Wilson's and Mojave's representations to the homeowners,
5 Mojave has expended its own money completing inspections and will receive its fees only
6 through litigation by the homeowner.

7 30. Inspections were conducted by Mojave at various WLH's housing community
8 developments in anticipation of litigation.

9
10 31. Partington and/or Wilson also initiate and provide legal advice in violation of
11 Nevada law concerning these specifics of NRS Chapter 40 and at certain places incorrectly
12 describes those rights. Partington and/or Wilson recommends that any other inspection
13 companies be paid for their services only if you receive reimbursements from the Builder and
14 likewise encourages homeowners they deal with to make sure that the law firm will sign a Risk
15 Free or contingency fee agreement. Mojave, through Partington and/or Wilson refers the vast
16 majority of Chapter 40 claims and related litigation concerning WLH to two law firms.

17
18 32. WLH believes the arrangement made by Mojave or for the benefit of Mojave
19 rewards Mojave for soliciting clients for two law firms and for referring clients to those law
20 firms for purposes of accumulating Chapter 40 claims and related litigation.

21 33. WLH believes that in the course of initiating inspections, providing legal advice,
22 and referring matters to lawyers, Partington and Wilson make misrepresentations to homeowners
23 which result in interference with WLH's ongoing contractual relationships with the homeowners
24 at issue, as further alleged below.
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1 34. Partington's and Wilson's conduct on behalf of Mojave constitutes actionable
2 champerty and maintenance and WLH has been damaged by the express requirement that
3 homeowners prosecute actions against WLH.

4 35. WLH is entitled to exemplary damages pursuant to NRS 42.005.

5 36. It has been necessary for WLH to obtain the services of an attorney to pursue this
6 claim and it is entitled to recover attorney's fees therefore.

7
8 **SECOND CLAIM FOR RELIEF**
9 **(Violation of Nevada's Deceptive Trade Practices Act)**

10 37. WLH repeats and realleges the allegations set forth in Paragraphs 1 through 36 in
11 plaintiff's complaint as though fully set forth herein.

12 38. Defendant Partington is not licensed to conduct inspections of residential
13 property, not licensed to examine any component of a structure and not licensed to prepare or
14 communicate an inspection report under NRS 645D.080. Partington holds himself out to the
15 public as a person who inspects residential properties and in fact his solicitations contain
16 references to the "Inspection Division" of Mojave as does his correspondence, prepared reports,
17 and on his website.

18 39. Wilson, likewise, is not licensed to conduct inspections of residential property or
19 examine any component of a structure and not licensed to prepare or communicate an inspection
20 report under NRS 645D.080.

21
22 40. Both Partington and Wilson have engaged in a deceptive trade practice by
23 conducting business or occupation without required state licenses in violation of NRS 598.0923.

24 41. WLH has been damaged by false representations in violation NRS 41.600(1) and
25 (2)(e) and WLH Communities is a victim of the consumer fraud initiated by the defendants in
26 violation of Nevada's Deceptive Trade Practices Act.

27 42. WLH Communities is entitled to exemplary damages under NRS 42.005.
28

1 43. It has been necessary for WLH Communities to obtain the services of an attorney
2 to pursue this claim and it is entitled to recover attorney's fees therefore.

3 **THIRD CLAIM FOR RELIEF**
4 **(Violation of the Lanham Act under 15 U.S.C. 1125(a)(1) and**
5 **Nevada Deceptive Trade Practices Act)**

6 44. WLH repeats and realleges the allegations set forth in Paragraphs 1 through 43 in
7 plaintiff's complaint as though fully set forth herein.

8 45. The misleading representations of defendants Mojave, Partington and Wilson are
9 intended to convince the reader/homeowner to call the Mojave phone number because they
10 "builder" (inferring WLH) is encouraging them to call and arrange an inspection.

11 46. WLH is not affiliated with Mojave, Partington and Wilson and has not authorized
12 the representations in the placard associating WLH with Mojave.

13 47. The false and misleading representations in the placard are representations in
14 commerce made in connection with Mojave's inspection services.

15 48. The false and misleading representations in the placard are made in the context of
16 commercial advertising or commercial promotion.

17 49. Mojave's actions by way of Partington's and Wilson's conduct have caused WLH
18 to be competitively injured by false and misleading factual representation and other verbal
19 representations and damage has resulted. The injury is ongoing.

20 50. Mojave's representations made by Partington and Wilson are likely to cause
21 confusion, mistake or to deceive the reader as their affiliation, connection, or association.
22 Specifically, these representations were made to give the homeowner reader the impression that
23 Mojave, Partington and Wilson were in fact affiliated with WLH. Specifically, these
24 representations were made to give the homeowner reader the impression that Mojave, Partington
25 and Wilson were in fact affiliated with the Builder, WLH.
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1 51. The representations on their face have a tendency to deceive by a way of a false
2 description of a connection or in affiliation with WLH.

3 52. The continuation of such conduct and distribution of such false and misleading
4 misrepresentations is anticipated. The majority of Chapter 40 demands received from
5 homeowners within the WLH's Communities are based upon inspections Mojave, through
6 Partington and Wilson, have actively solicited in the fashion described in this Complaint.

7 53. The interference described hereafter resulting from such conduct includes the
8 probability WLH will lose good will, suffer competitive injury, and incur other damages which
9 are irreparable. As a result, WLH is entitled to injunctive relief prohibiting defendants' further
10 solicitations through false representations and misleading statements of fact constituting
11 violations of the Lanham Act under 15 U.S.C. 1125(a)(1) and Nevada's Deceptive Trade Practice
12 Statute Violations.

13
14 54. WLH is entitled to exemplary damages under § 35 of the Lanham Act.

15 55. WLH is entitled to three times actual damages pursuant to 15 U.S.C. 1117(a).

16 56. Defendants' intentional false representations as to the source, sponsorship, and
17 approval of services, inferring those services are those of another person and knowingly making
18 false representations as to affiliation, connection and association with WLH constitutes deceptive
19 trade practices made in violation of NRS 598.0915.

20 57. The deceptive trade practices described above are actionable in Nevada pursuant
21 to NRS 41.600(1) and (2)(e) and WLH is a victim of the consumer fraud initiated by the
22 defendants in violating Nevada's Deceptive Trade Practices Act.

23 58. WLH is entitled to actual damages, consequential damages and punitive damages,
24 including exemplary damages under NRS 42.005.
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1 59. It has been necessary for WLH to obtain the services of an attorney to pursue this
2 claim and it is entitled to recover attorney's fees therefore.

3 **FOURTH CLAIM FOR RELIEF**
4 **(Interference)**

5 60. WLH repeats and realleges the allegations set forth in Paragraphs 1 through 59 in
6 plaintiff's complaint as though fully set forth herein.

7 61. Mojave, Partington and Wilson have interfered with contractual relationships of
8 WLH's Communities and homeowners referred to here as Homeowners A, B, C and D, who are
9 actual homeowners in the WLH's housing community developments, but whose names are
10 withheld for privacy.

11 62. Homeowners A, B, C and D each purchased a home from WLH in Clark County,
12 Nevada. The contracts for sale included a number of continuing duties and obligations. Both the
13 seller and the buyers have rights and obligations that continue following the real estate closing.
14 For each of these homeowners, there existed an ongoing limited warrant ("WLH Home
15 Warranty") right and obligations.
16

17 63. Mojave, through Partington and Wilson, approached Homeowners A, B, C and D
18 and offered to conduct a free inspection of their homes on terms described above during the
19 active warranty period. Each inspection was performed and Mojave provided a report to
20 Homeowners A, B, C, and D.
21

22 64. The reports each identified items which, if factual, fell within the scope of WLH's
23 Home Warranty.

24 65. Mojave then spoke with Homeowners A, B, C and D concerning the respective
25 reports and Mojave's findings. Mojave suggested that they procure legal counsel and referred
26 them to counsel.
27
28

1 66. During the time periods ranging from one month to six months, Homeowners A,
2 B, C and D had no communications directly with WLH or under the WLH home warranty as
3 they had been persuaded to pursue their claims by way of Chapter 40 demand and through
4 litigation following the Chapter 40 demand.

5 67. Repair demands asserted on behalf of Homeowner A, B, C and D under Chapter
6 40 identified no construction defects and no areas of repair other than corrections that fell within
7 the parameters of WLH Home Warranty.

8 68. WLH regards its warranties as a customer service feature of its contracts and its
9 customers' goodwill depends in part upon their ability to have repairs made under the warranties
10 that WLH provides. The continuing relationship of WLH with its customers is a significant
11 commercial relationship of great important to WLH. Interference with an ongoing contractual
12 relationship that existed between WLH Communities and Homeowners A, B, C and D occurred
13 through the intentional and bad faith conduct of Mojave, Partington and Wilson by:
14

- 15 a. initiating inspection efforts for which Mojave is not licensed in Nevada;
16 b. conducting an inspection in bad faith with the purpose to foment or create
17 claims against WLH that have no merit, or are otherwise covered by the WLH
18 Home Warranty; and
19 c. to preempt Homeowners A's, B's, C's and D's ability to deal with WLH
20 under their existing warranty relationship and instead counseling and intentionally
21 directing the homeowners to file suit utilizing a specific law firm that initiates
22 immediate instructions to make no contact with the homeowner except through
23 counsel.
24

25 69. Disruption of WLH's warranty relationship with Homeowners A, B, C, and D
26 occurred.
27
28

1 70. The actions of Mojave, Partington and Wilson were intentional, intended or
2 designed to disrupt the contractual relationship between WLH and Homeowners A, B, C and D
3 and an actual disruption of those contracts resulted.

4 71. WLH has sustained damages in excess of \$75,000 as a result of defendants'
5 actions in the form of loss of the preemptive use of warranty service to protect the company from
6 the expense of confrontation and loss of goodwill in WLH's customer relationship. WLH has
7 unnecessarily incurred costs and fees in the defense of claims asserted by Homeowners A, B, C,
8 and D.

9
10 72. WLH is entitled to exemplary damages pursuant to NRS 42.005.

11 73. It has been necessary for WLH to obtain the services of an attorney to pursue this
12 claim and it is entitled to recover attorney's fees therefore.

13 **FIFTH CLAIM FOR RELIEF**
14 **(Temporary Restraining Order/Preliminary and Permanent Injunction)**

15 74. WLH repeats and realleges the allegations set forth in Paragraphs 1 through 73
16 in plaintiff's complaint as though fully set forth herein.

17 75. WLH is entitled to an injunction prohibiting further written or verbal
18 representations by Mojave, Partington and Wilson, or any of them, which have a tendency to
19 deceive by way of a false description of a connection or affiliation with WLH, including, but not
20 limited to the distribution of placards in the form of or similar to Exhibit 3.

21
22 76. WLH is entitled to an injunction to prevent further representations by defendants
23 Mojave, Partington and Wilson or any of them of appropriate licensure constituting a violation of
24 NRS 598.0923.

25 77. WLH is entitled to injunctive relief to preempt further interference with its
26 homeowner warranty agreements described herein as WLH Home Warranty.
27
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1 78. WLH is entitled to injunctive relief barring Mojave, Partington and Wilson, and
2 each of them, from further initiating agreements which constitute champerty and maintenance in
3 which the three of them, or any of them, promote agreements, directly or indirectly, which
4 depend upon recovery in future claims against WLH in which Mojave, Partington and Wilson
5 have no interest as claimants.

6 79. It has been necessary for WLH to obtain the services of an attorney to pursue this
7 claim and it is entitled to recover attorney's fees therefore.
8

9 **SIXTH CLAIM FOR RELIEF**
(Recovery of Attorney's Fees under Sandy Valley)

10 80. WLH repeats and realleges the allegations set forth in Paragraphs 1 through 79 in
11 plaintiff's complaint as though fully set forth herein.
12

13 81. The bad faith conduct of Partington, Wilson and Mojave necessitated the
14 expenditure of attorney's fees by WLH.

15 82. WLH has incurred fees and costs which are sought here as special damages
16 consistent with Sandy Valley Associates v. Sky Ranch Estates Owners Association, 117 Nev.
17 948, 956, 35 P.3d 964, 969 (2001).
18

19 83. WLH has incurred fees in defense of the wrongful Chapter 40 Notices for
20 Homeowners A, B, C and D and otherwise by reason of Mojave's champertous conduct.

21 84. It has been necessary for WLH to obtain the services of an attorney to pursue this
22 claim and it is entitled to recover reasonable attorney's fees incurred herein.

23 WHEREFORE, William Lyon Homes prays for relief as follows:

24 1. For judgment against Partington in an amount in excess of \$75,000 to be
25 determined at trial for actual damages, consequential damages and exemplary damages pursuant
26 to NRS 42.005;
27
28

2. For judgment against Wilson in an amount in excess of \$75,000 to be determined at trial for actual damages, consequential damages and exemplary damages pursuant to NRS 42.005;

3. For judgment against Mojave in an amount in excess of \$75,000 to be determined at trial for actual damages, consequential damages and exemplary damages pursuant to NRS 42.005;

4. For a temporary restraining order, preliminary and permanent injunction prohibiting further solicitation through false representations and misleading statements of fact constituting violations of the Lanham Act under 15 U.S.C. 1125(a)(1) an Nevada Deceptive Trade Practice Statute Violations.

5. For exemplary damages under § 35 of the Lanham Act;

6. For recovery of three times actual damages pursuant to 15 U.S.C. 1117(a)

7. For attorney's fees incurred herein;

8. For interest as allowed by statute;

9. For costs incurred herein; and

10. For such other and further relief as the Court deems proper.

Dated this 25 day of February, 2009.

READE & ASSOCIATES

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Attorneys for Plaintiff William Lyon Homes, Inc.

Exhibit "1"

Construction Design Specialists, LLC

Construction Investigations & Consulting Licensed General Contractor: B-0058810
10620 Southern Highland Parkway, Suite 110-103 - Las Vegas, Nevada 89113 - Phone 702-341-6068

THE NEW 'RIGHT TO REPAIR' LAW IN NEVADA

States that homeowners have the rights to be reimbursed for any reasonable cost or fees incurred for legal services and experts in order to ascertain the nature and extent of constructional defects NRS Chapter 40.655

Under the new law homeowners have the right to have the builder make the necessary repairs to homes that show code violations or work performed under industry standards. Your options are:

- 1) HOMEOWNERS can notify the homebuilder via Certified Mail with return receipt requested explaining that CDS has conducted an evaluation and discovered constructional defects or manufacturers specification not being adhered to. Homeowners should be aware of the process outlined in Chapter 40 of the Nevada Law if they intend protect their own rights.
- 2) INSPECTION TEAMS can help the homeowners through the process by representing the interest of the homeowners when the builder and subcontractors do their walk through; make sure the repairs are within code requirements or manufacturers specifications; complete the process by doing a final walk through inspection with the homeowners. The law states that you can be reimbursed for any reasonable expert fees. Be sure that the company you hire offers you a Risk Free Service Agreement. These companies look to be paid for their services only if you receive reimbursements from the builder.
- 3) LEGAL FIRMS THAT HANDLE CHAPTER 40 CLAIMS. A law firm can make sure the builder will honor his responsibility and ensure that your legal warranty period is protected and extended. The law firm will also hire their own inspection teams to protect you from shoddy workmanship by subcontractors. Again make sure that the law firm will sign a RISK FREE or CONTINGENCY FEE AGREEMENT.

If you are not familiar with a law firm that handles Chapter 40 claims, we can provide the names of three law firms that are willing to help you.

If we can be of any further assistance please contact us at (702) 341-6068.

At Your Service,

CDS

Exhibit "2"

MC Mojave Construction

Construction Investigations & Consulting - Licensed General Contractor: B-0015771
5001 Jay Ave. - Las Vegas, Nevada 89130 - Inspection Division Phone (702) 439-8504

CHAPTER 40 INSPECTIONS AND EVALUATION AGREEMENT

Description and Cost of Services

ERS Report. MCMC will provide a written report that will define what we believe to be code or manufacturer's violation or work that we feel is below industry standards to the builder.

- The report will include pictures of what we believe to be the violation(s).
- The report will diagram the house and make approximate notations of where the violation(s) occurs.
- The report will include industry standard technical data sheets & typical repair scope for violation(s).

Builders Inspection. MCMC will attend the builder's inspection if requested by homeowner.

Pre-Repair Mtg. MCMC will attend a pre-repair meeting with builder and/or builders' experts to discuss and agree on the type of repairs to be made prior to any repair work commencement if approved by builder.

Evaluation of Repairs. MCMC will attend up to 10 hours of inspections to monitor the repairs being made by builder or their subcontractors. If the repairs requires more than ten hours of inspections, MCMC will bill out each additional hour at the rate of \$145.00 per hour.

Final inspection. MCMC will attend the final walk-thru with the homeowner and discuss what has or has not been accomplished. A written report will be produced if requested by homeowner.

Homeowner agrees:

To include all MCM invoices for services rendered in behalf of homeowner by MCMC to the homebuilder and/or law firm if builder is represented by such via certified mail with return receipt request; If homeowner desires MCMC to send copies of said invoices to the builder and/or legal firm via certified mail please initial here ms

Terms of payment

MCMC will ONLY collect said fee if or when the builder reimburses the Homeowner; Homeowner is not responsible to pay the fee until the Homeowner receives reimbursement from the builder for inspection fees. However, Homeowner assigns to MCMC the right to recover any and all inspection fees from the builder if the builder fails to pay all the inspection fees as outlined in NRS 60.645

Cost for MCMC service	
Due at the time of signing	\$500.00
Due at completion	\$1300.00
Total	\$1800.00

Date: 6/14/07 Mark Diaz Date: 6/14/07
M C Mojave Construction
5001 Jay Ave
Las Vegas, Nevada 89130
Inspection Division
(702) 439-8504

BRANDI GARLUTZO

JUL 25 2007

REDACTED

Exhibit "3"

*** * * Notice to Neighbors * * ***

As a courtesy, we are informing you that, due to a Builder home inspection, you may experience a few hours of extra vehicular traffic in your neighborhood. These vehicles belong to representatives & experts from both MC Mojave Construction & your Builder. The subcontractors and agents

This inspection has been scheduled for

Don T. Callahan

Once the Builder inspections are concluded, a repair plan and time frame are provided to the homeowner for their review and approval. If the Builder's repairs are also free to A/E home owners under a Chapter 40 claim, even if you are not the original homeowner.

**If you have any question or if you want to know
if you qualify for a FREE home evaluation
Please Call (702) 439-8504**

MC Mojave Construction - Lic #B 0025711

REDACTED

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS WILLIAM LYON HOMES, INC. f/k/a PRESLEY HOMES (b) County of Residence of First Listed Plaintiff <u>California</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number) (see attachment)	DEFENDANTS CHARLES LESLIE PARTINGTON d/b/a M.C. MOJAVE CONSTRUCTION (see attachment) County of Residence of First Listed Defendant <u>Nevada</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">PTF</th> <th style="text-align: left; border-bottom: 1px solid black;">DEF</th> <th style="text-align: left; border-bottom: 1px solid black;">PTF</th> <th style="text-align: left; border-bottom: 1px solid black;">DEF</th> </tr> <tr> <td style="border-bottom: 1px solid black;">Citizen of This State</td> <td style="border-bottom: 1px solid black;"><input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1</td> <td style="border-bottom: 1px solid black;">Incorporated or Principal Place of Business in This State</td> <td style="border-bottom: 1px solid black;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Citizen of Another State</td> <td style="border-bottom: 1px solid black;"><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td style="border-bottom: 1px solid black;">Incorporated and Principal Place of Business in Another State</td> <td style="border-bottom: 1px solid black;"><input checked="" type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Citizen or Subject of a Foreign Country</td> <td style="border-bottom: 1px solid black;"><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td style="border-bottom: 1px solid black;">Foreign Nation</td> <td style="border-bottom: 1px solid black;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input checked="" type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
Citizen of This State	<input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4														
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)						
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>28 U.S.C. 1332</u> Brief description of cause: <u>Intentional interference with contract relationships</u>
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ <u>75,000.00</u>	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE <u>2/25/09</u>	SIGNATURE OF ATTORNEY OF RECORD <u>Andrew H. Pastorek</u>
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FOR OFFICE USE ONLY	RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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R. Christopher Reade, Esq.
Nevada Bar No. 006791
Andrew H. Pastwick, Esq.
Nevada Bar No. 009146
READE & ASSOCIATES
4560 S. Decatur Boulevard, Suite 201
Las Vegas, Nevada 89103
Tel: (702) 794-4411
Fax: (702) 794-4421
creade@readelawfirm.com
apastwick@readelawfirm.com
Attorneys for Plaintiff
WILLIAM LYON HOMES, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WILLIAM LYON HOMES, INC.,
a California corporation f/k/a PRESLEY
HOMES

Plaintiff,

CHARLES LESLIE PARTINGTON d/b/a
M.C. MOJAVE CONSTRUCTION a/k/a
C D S CONSTRUCTION
DESIGN SPECIALISTS LLC, JOHN
WILSON, individually; and DOE
INDIVIDUALS I-X, inclusive; and ROE
ENTITIES I-X, inclusive,

Defendants.

Case No. _____

CIVIL COVER SHEET ATTACHMENT

I. (c) Plaintiff's Attorneys:

R. Christopher Reade, Esq.
Andrew H. Pastwick, Esq.
READE & ASSOCIATES
4560 S. Decatur Boulevard, Suite 201
Las Vegas, Nevada 89103
Tel: (702) 794-4411

Defendants:

CHARLES LESLIE PARTINGTON d/b/a M.C. MOJAVE CONSTRUCTION a/k/a C D S
CONSTRUCTION DESIGN SPECIALISTS LLC, JOHN WILSON; DOE INDIVIDUALS I-X
and ROE ENTITIES I-X

ORIGINAL

R. Christopher Reade, Esq.
Nevada Bar No. 006791
Andrew H. Pastwick, Esq.
Nevada Bar No. 009146
READE & ASSOCIATES
4560 S. Decatur Boulevard, Suite 201
Las Vegas, Nevada 89103
Tel: (702) 794-4411
Fax: (702) 794-4421
creade@readelawfirm.com
apastwick@readelawfirm.com
Attorneys for Plaintiff
WILLIAM LYON HOMES, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WILLIAM LYON HOMES, INC.,
a California corporation fka PRESLEY
HOMES

Plaintiffs.

CHARLES LESLIE PARTINGTON d/b/a
M.C. MOJAVE CONSTRUCTION a/k/a
C D S CONSTRUCTION
DESIGN SPECIALISTS LLC, JOHN
WILSON, individually; and DOE
INDIVIDUALS I-X, inclusive; and ROE
ENTITLES I-X, inclusive,

Defendants.

Case No.

SUMMONS IN A CIVIL ACTION

To: Charles Leslie Partington d/b/a M.C. Mojave Construction a/k/a C D S Construction
Design Specialists, LLC
5001 Jay Avenue
Las Vegas, Nevada 89130

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose

1 name and address are:

2 R. Christopher Reade, Esq.
3 Reade & Associates
4 4560 S. Decatur Boulevard, Suite 201
5 Las Vegas, Nevada 89103

6 If you fail to respond, judgment by default will be entered against you for the relief
7 demanded in the complaint. You also must file your answer or motion with the court.

8
9 CLERK OF COURT

10 Date: _____

11 _____
12 *Signature of Clerk or Deputy Clerk*
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AFFIDAVIT OF SERVICE

STATE OF _____)
) ss.
 COUNTY OF _____)

_____, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, on the _____ day of February, 2009, and served the same on the _____ day of _____, 2009, by:

(affiant must complete the appropriate paragraph)

1. delivering and leaving a copy with the Defendant _____ at (state address) _____.
2. serving the Defendant by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at Defendant's usual place of abode located at: (state address) _____.
 (Use paragraph 3 for service upon agent, completing A or B)
3. serving the Defendant _____ by personally delivering and leaving a copy at (state address) _____.
 - a. with _____ as _____, an agent lawfully designated by statute to accept service of process:
 - b. with _____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident shown on the current certificate of designation filed with the Secretary of State.
4. personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):
 - _____ ordinary mail
 - _____ certified mail, return receipt requested
 - _____ registered mail, return receipt requested
 addressed to the Defendant _____ at Defendant's last known address which is (state address) _____.

SUBSCRIBED AND SWORN to before me
 _____ this ____ day of _____, 2009.

 NOTARY PUBLIC in and
 For Said Count and State.

ORIGINAL

1 R. Christopher Reade, Esq.
 Nevada Bar No. 006791
 2 Andrew H. Pastwick, Esq.
 Nevada Bar No. 009146
 3 READE & ASSOCIATES
 4560 S. Decatur Boulevard, Suite 201
 4 Las Vegas, Nevada 89103
 Tel: (702) 794-4411
 5 Fax: (702) 794-4421
 create@readelawfirm.com
 6 apastwick@readelawfirm.com
 Attorneys for Plaintiff
 7 WILLIAM LYON HOMES, INC.

UNITED STATES DISTRICT COURT**DISTRICT OF NEVADA**

10 WILLIAM LYON HOMES, INC.,)
 a California corporation fka PRESLEY)
 11 HOMES)

12 Plaintiffs.)

Case No.

SUMMONS IN A CIVIL ACTION

13 CHARLES LESLIE PARTINGTON d/b/a)
 14 M.C. MOJAVE CONSTRUCTION a/k/a)
 C D S CONSTRUCTION)
 15 DESIGN SPECIALISTS LLC, JOHN)
 WILSON, individually; and DOE)
 16 INDIVIDUALS I-X, inclusive; and ROE)
 ENTITLES I-X, inclusive,)

17 Defendants.)
 18

19
 20 To: John Wilson
 5001 Jay Avenue
 21 Las Vegas, Nevada 89130

22 A lawsuit has been filed against you.

23 Within 20 days after service of this summons on you (not counting the day you received
 24 it) – or 60 days if you are the United States or a United States agency, or an officer or employee
 of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) – you must serve on the plaintiff
 25 an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil
 Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose
 26
 27
 28

name and address are:

R. Christopher Reade, Esq.
Reade & Associates
4560 S. Decatur Boulevard, Suite 201
Las Vegas, Nevada 89103

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AFFIDAVIT OF SERVICE

STATE OF _____)
) ss.
 COUNTY OF _____)

_____, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, on the _____ day of February, 2009, and served the same on the _____ day of _____, 2009, by:

(affiant must complete the appropriate paragraph)

1. delivering and leaving a copy with the Defendant _____ at (state address) _____.
2. serving the Defendant by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at Defendant's usual place of abode located at: (state address) _____.

(Use paragraph 3 for service upon agent, completing A or B)

3. serving the Defendant _____ by personally delivering and leaving a copy at (state address) _____.
- a. with _____ as _____, an agent lawfully designated by statute to accept service of process:
- b. with _____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident shown on the current certificate of designation filed with the Secretary of State.
4. personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):

____ ordinary mail
 ____ certified mail, return receipt requested
 ____ registered mail, return receipt requested

addressed to the Defendant _____ at Defendant's last known address which is (state address) _____.

SUBSCRIBED AND SWORN to before me

_____ this ____ day of _____, 2009.

 NOTARY PUBLIC in and
 For Said Count and State.