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8 Attorneys for Plaintiff,
9 JOHNSON & TURNER PAINTING COMPANY, INC.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 02 2014

D. Rosenbloom *DR*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE, HISTORIC COURTHOUSE

JOHNSON & TURNER PAINTING
COMPANY, INC.,

Plaintiff,

vs.

C.W. DRIVER aka C.W. DRIVER
INCORPORATED; KAISER PERMANENTE;
KAISER PERMANENTE NATIONAL SERVICES;
DOES 1 through 50, Inclusive,

Defendants

CASE NO. *RIC 1409419*
COMPLAINT FOR DAMAGES
[Breach of Contract; Account
Stated; Foreclosure Of Mechanic's
Lien]

Plaintiff, JOHNSON & TURNER PAINTING COMPANY, INC., alleges:

COMMON ALLEGATIONS

1. Plaintiff, JOHNSON & TURNER PAINTING COMPANY, INC., ("JOHNSON & TURNER") is a corporation organized and existing pursuant to the laws of the State of California with its principal place of business within the County of Orange. Plaintiff is now, and at all times herein mentioned was, a contractor duly licensed as such under the laws of the State of California.

2. Plaintiff is informed and believes and based thereon alleges that Defendant C.W. DRIVER is also known as C.W. DRIVER, INCORPORATED ("C.W. Driver") is a

1 corporation organized and existing pursuant to the laws of the State of California with its
2 principal place of business within the County of Los Angeles. Plaintiff is further informed
3 and believes and thereon alleges that at all times mentioned herein Defendant C.W. Driver
4 was a general contractor duly licensed as such under the laws of the State of California.

5 3. Plaintiff is informed and believes that Defendants KAISER PERMANENTE and
6 KAISER PERMANENTE NATIONAL SERVICES (hereinafter collectively "Kaiser") are
7 business entities the precise form of which is unknown to the plaintiff who will pray leave
8 to amend this complaint to allege their true form, status and capacity when the same has
9 been ascertained. Plaintiff is informed and believes that Defendant Kaiser has its principal
10 place of business in the County of Los Angeles, State of California.

11 4. Defendants DOES 1 through 50, inclusive, are sued herein under fictitious
12 names. Their true names and capacities are unknown to plaintiff. When the true names
13 and capacities are ascertained, plaintiff will amend this complaint by inserting their true
14 names and capacities herein. Plaintiff is informed and believes and thereon alleges that
15 each of the fictitiously named defendants claims an interest or estate in the property
16 herein mentioned.

17 5. At all times herein mentioned, defendants Kaiser were the owner or reputed
18 owner of that certain real property situated in Riverside County, California, described as
19 follows (hereinafter "the work of improvement"):

20 Lot Number 2; Tract: 0467001022
21 Assessors Parcel Number 297-100-065
22 14305 Meridian Parkway
Riverside, California 92508

23 FIRST CAUSE OF ACTION

24 (Breach of Contract this Against Defendants C.W. Driver 25 and Does 1 through 5)

26 6. Plaintiff incorporates herein by this reference as though same were set forth in
27 full, all of the allegations of paragraphs 1 through 5.

28 7. Plaintiff is informed and believes that prior to January 26, 2014, Defendant
Kaiser and DOES 1 through 5, Inclusive, entered into an original contract with C.W.

1 Driver as original contractor, for construction of a Work of Improvement referred to as
2 the Kaiser Meridian MOB TI Buildout, 14305 Meridian Parkway, Riverside, California
3 92508 (the "Work of Improvement"). Plaintiff is informed and believes and thereon
4 alleges that pursuant to the original contract, Kaiser authorized C.W. Driver to hire, retain
5 and/or contract with material providers and subcontractors to perform services or provide
6 materials to the Work of Improvement.

7 8. On or about January 26, 2014, in the City of Stanton, County of Orange,
8 California, plaintiff entered into a written contract with defendant C.W. Driver for the
9 performance of paint and wallcovering related work to the Work of Improvement referred
10 to in the contract as 14305 Meridian Parkway, Riverside, California 92508. Under this
11 contract, plaintiff was to furnish all necessary labor, services, materials, and equipment
12 to be used or consumed in the performance of the plaintiff's particular portion of the Work
13 of Improvement. The original amount to be paid to the plaintiff for the performance of
14 the plaintiff's portion of the services to be provided to the Work of Improvement was
15 \$108,860.00 together with any change orders issued by the defendant C.W. Driver.
16 Subsequent to the execution of the contract, defendant C.W. Driver issued change orders
17 increasing the scope of the work and services to be provided by the plaintiff and increasing
18 the agreed amount due to the plaintiff for the performance of its scope of work to the
19 Work of Improvement by an additional \$100,212.00, for a total contract amount of
20 \$209,072 which defendant C.W. Driver agreed to pay to the plaintiff for the work
21 performed by the plaintiff to or for the benefit of the Work of Improvement.

22 9. Pursuant to this contract, plaintiff performed the work and labor for, and
23 furnished all necessary services, materials, and equipment to be used or consumed in and
24 which were actually used or consumed in the work of improvement, and performed all
25 other conditions, covenants, and promises under the contract, on its part to be performed.

26 10. Plaintiff has paid the claims of any claimants who have furnished labor, services,
27 equipment, and materials as may required under the above-alleged direct contract.

28 11. Plaintiff has performed all other conditions, covenants, and promises under the

1 contract, on his or her part to be performed.

2 12. The whole of the real property mentioned above on which the work of
3 improvement is situated is required for the convenient use and occupation of the work of
4 improvement.

5 13. Although demand therefor has been made since the work was performed and
6 all necessary services, materials, and equipment were furnished, at the time that the
7 plaintiff caused its Mechanics Lien to be recorded, July 3, 2014, there remained due,
8 owing and unpaid from the defendant to the plaintiff the sum of \$153,030.00.

9 14. Subsequent to July 3, 2014, the date of the filing of the plaintiff's Mechanics
10 Lien, defendant C.W. Driver has made partial payments to the plaintiff. Accordingly,
11 there remains due, owing and unpaid from the defendant to the plaintiff the sum of
12 \$110,691.00

13 15. Pursuant to the written contract between the parties, in the event that litigation
14 is commenced to enforce the contract terms, the prevailing party in such litigation shall
15 be entitled to recover its reasonable attorneys.

16 **SECOND CAUSE OF ACTION**

17 **(Account Stated, this Against Defendants C.W. Driver**
18 **and Does 1 through 5)**

19 16. On or about September 1, 2014,, in Orange County, California, an account was
20 stated writing by and between plaintiff and defendant C.W. Driver and on such statement
21 a balance of \$109,760.00 was found due to plaintiff from defendant. Defendant agreed to
22 pay to plaintiff said balance.

23 17. Although demanded by plaintiff from defendant, neither all nor any part of the
24 agreed balance has been paid.

25 18. There is now due, owing, and unpaid from defendant to plaintiff the sum of
26 \$110,691.00, together with interest thereon at the maximum allowable rate.

27 19. Plaintiff has incurred attorney's fees in connection with this matter, in an
28 amount to be determined at trial, which fees plaintiff is entitled to recover from defendant

1 pursuant to the agreement between the parties as alleged herein.

2 **THIRD CAUSE OF ACTION**

3 **(Foreclosure of the Mechanics Lien, this Against**
4 **Defendants Kaiser and Does 3 through 10)**

5 20. Plaintiff incorporates herein by this reference as though same were set forth
6 in full, all of the allegations of paragraphs 6 through 14.

7 21. Within 20 days after Plaintiff first furnished any labor, services, material or
8 equipment to the Work of Improvement, Plaintiff served a Preliminary 20 Day Notice on
9 Defendants in accordance with the provisions of Section 8204 of the California Civil Code,
10 by mailing the 20 Day Notice to the Defendants at the addresses provided for each. Proof
11 at the Preliminary 20 Day Notice was served in accordance with the provisions of Section
12 8108 of the California Civil Code was made by Declaration as specified in Section 8118 of
13 the California Civil Code.

14 22. After plaintiff finished the contract, on or about July 3, 2014, plaintiff duly
15 filed and recorded as document number 2014-0248831 in the office of the County
16 Recorder of the County of Riverside, its claim of lien duly verified under oath, a full and
17 correct copy of which is attached hereto, marked Exhibit "A" and made a part hereof by
18 reference. This claim of lien was recorded within ninety days of the completion of the
19 work of improvement or within thirty days of the recording of a notice of completion by
20 the defendant.

21 23. In this claim of lien, plaintiff claimed a mechanics lien on the work of
22 improvement and real property for the amount of the unpaid contract price alleged above
23 which price is the reasonable value of all labor, materials, services, and equipment plaintiff
24 has furnished.

25 24. Defendants Kaiser and Does 3 through 10 have or claim to have some right,
26 title, or interest in the above-described real property, the exact nature of which claims is
27 unknown to plaintiff, but which claims are subject and subordinate to the claim of lien of
28 plaintiff.

1 **WHEREFORE**, plaintiff prays judgment as follows:

2 **FIRST CAUSE OF ACTION**

- 3 1. For the sum of \$110,691.00 principal, together with interest at the maximum allowable
4 rate to date of entry of judgment;
5 2. For reasonable attorneys fees;

6 **SECOND CAUSE OF ACTION**

- 7 3. For the sum of \$110,691.00 principal, together with interest at the maximum
8 allowable rate to date of entry of judgment;
9 4. For reasonable attorneys fees;

10 **THIRD CAUSE OF ACTION**

11 5. Adjudging that the rights, claims, ownership, liens, titles, and demands of defendants,
12 and each of them, in the above-described real property are subsequent to and subject to
13 the lien of plaintiff.

14 6. Adjudging that the mechanics lien claimed in the claim of lien, referred to above as
15 Exhibit "A" be enforced, and that the usual judgment be made for the sale of the property
16 according to law by a commissioner to be appointed by the court; that the proceeds of the
17 sale be applied in payment of the amounts including interest at the maximum allowable
18 rate per day to date of entry of judgment due to plaintiff; that each of the defendants and
19 all persons claiming under any of them, subsequent to the mechanics lien of the plaintiff,
20 whether as lien claimants, judgment creditors, purchasers, encumbrancers, or otherwise,
21 be barred and foreclosed from all rights, claims, interests, or equity of redemption in the
22 property and every part of the property when time for redemption has passed.

23 7. Adjudging that if there is a deficiency of proceeds to satisfy the amounts due to the
24 plaintiff, judgment for the deficiency be entered against the defendant following
25 proceedings prescribed by law.

26 8. Permitting plaintiff to become a purchaser at the lien-enforcement sale

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1 ALL CAUSES OF ACTION

2 9. For costs of suit herein incurred.

3 10. For such other and further relief as the court may deem proper.

4
5 DATED: October 1, 2014

GULINO LAW OFFICE

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9 By: 

10 JOHN J. GULINO
11 Attorneys for Plaintiff,
12 JOHNSON & TURNER PAINTING
13 COMPANY, INC.
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Courthouse News Service

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

JOHN J. GULINO
GULINO LAW OFFICE
2107 NORTH BROADWAY
SUITE 309
SANTA ANA, CALIFORNIA 92706

TELEPHONE NO.: 714-541-6900

FAX NO.: 714-242-9042

ATTORNEY FOR (Name): PLAINTIFF

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

STREET ADDRESS: 4050 MAIN STREET

MAILING ADDRESS: P.O. BOX 431

CITY AND ZIP CODE: RIVERSIDE, CALIFORNIA 92501

BRANCH NAME: HISTORIC COURT HOUSE

CASE NAME: JOHNSON AND TURNER V. C.W. DRIVER

CIVIL CASE COVER SHEET

☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

121C 1409419

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☐ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☒ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): THREE

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: SEPTEMBER 28, 2014

JOHN J. GULINO

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

JOHNSON & TURNER PAINTING VS C.W.DRIVER

CASE NO. RIC1409419

This case is assigned to the Honorable JUDGE DANIEL A OTTOLIA in Department 04 for all purposes.

The Case Management Conference is scheduled for 04/02/15 at 8:30 in
Department 04.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who
are named or added to the complaint and file proof of service.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than
five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I
am not a party to this action or proceeding. In my capacity, I am familiar with the practices and
procedures used in connection with the mailing of correspondence. Such correspondence is deposited
in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States
Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served
a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Date: 10/02/14

by: 
DAWN ROSENBLOOM Deputy Clerk