

Saul Goodman (12345)
Altiorem Legal Services, PLLC
123 Legal Aid Street
Provo, UT 84606
(801) 855-6541
info@altioremlegalservices.com
Attorney for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

HORATIO AND BEATRICE
HOMEOWNER,

Plaintiffs,

vs.

ROBERT THEODORE BUILDER,

Defendant.

**DEFENDANT’S FIRST SET OF
INTERROGATORIES, REQUESTS FOR
ADMISSIONS, AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Case Number: CV6LSX392

Judge: Dallin Oaks

The Defendant in the above-captioned matter, by and through his counsel of record, and pursuant to Rules 26, 33, 34, and 36 of the Utah Rules of Civil Procedure, hereby serves upon Plaintiffs “Defendant’s First Set of Interrogatories, Requests for Admissions, and Requests for Production of Documents,” to be answered in writing under oath, within twenty-eight (28) days of their service upon Plaintiffs, whom are required to provide their responses to counsel for Defendant, Saul Goodman (Altiorem Legal Services, PLLC, 123 Legal Aid Street, Provo, Utah 84606; info@altioremlegalservices.com), within twenty-eight (28) days after service hereof.

INSTRUCTIONS

Unless otherwise specifically indicated, the Interrogatories are confined to the time period of and seek information about the events, happenings and/or other matters that occurred during the relevant time period. Plaintiffs’ response to these Interrogatories should comport with the spirit

and intent of the Utah Rules of Civil Procedure. This means that Plaintiffs' responses should be in good faith, truthful and in accordance with these specific instructions.

1. Plaintiffs are to answer these Interrogatories under oath within twenty-eight (28) days from the time they are served upon them. Each Interrogatory must be answered separately and fully in writing, unless it is objected to, in which event the reason for objecting shall be stated in lieu of an answer.

2. In answering, Plaintiffs are to furnish such information as is available to them, not merely the facts about which Plaintiffs have personal knowledge. Plaintiffs are also to furnish information, which is known by or is in the possession of Plaintiffs' agents and employees, including Plaintiffs' attorney and any agent or investigator employed by Plaintiffs' attorney.

3. If any of these Interrogatories or portions thereof that cannot be fully answered, Plaintiffs must deny that Interrogatory to the extent possible, and then give their reasons for not answering more fully. Plaintiffs may not, however, give a lack of information as a reason for failing to fully answer an Interrogatory without first having made a reasonable effort to acquire the information needed to answer.

4. If Plaintiffs object to an Interrogatory, they are to set forth all the reasons why that Interrogatory is objectionable. Should Plaintiffs' objection be made to only part of any Interrogatory, they must completely answer the remainder of that Interrogatory.

5. All objections to these Interrogatories must be signed by Plaintiffs' attorney. If Plaintiffs claim any privilege as a reason for not answer an Interrogatory in whole or in part, Plaintiffs must state the factual basis for their claim of privilege in sufficient detail so as to permit the Court to adjudicate the validity of that claim. Therefore, as to each Interrogatory or part thereof,

which Plaintiffs refuse to answer on the basis of a claim of privilege, Plaintiffs are to provide the following information:

- a. Privilege(s) claimed;
- b. Specific facts upon which each claim of privilege is based;
- c. If a document is involved, identify that document; and
- d. If the privilege concerns an oral communication, identify that communication.

6. If Plaintiffs propose to rely upon the production of documents pursuant to Rule 33(d) of the Utah Rules of Civil Procedure in lieu of answering an Interrogatory, they must specify by category and location, the records from which the answer to that specific Interrogatory may be derived. Furthermore, if Plaintiffs contend that the answer to any Interrogatory is contained in any document or documents that Plaintiffs have already produced, Plaintiffs must identify that document or documents, including providing the document control number.

7. If Plaintiffs refuse to produce any documents on the grounds of confidentiality or privilege, with respect to each such document, Plaintiffs are to:

- a. state the ground(s) for their refusal to produce the document;
- b. describe the type of document (e.g., letter, inter—or intra—corporate correspondence, memorandum, handwritten notes);
- c. identify the author(s) of the document;
- d. identify the addressee(s) of the document and all persons copied or who have seen or received copies;
- e. state the date of the document;

- f. state a brief summary of the contents of subjects discussed in the document;
- g. identify all persons who have knowledge of the document or the contents of or subjects discussed in the document or with whom the document or contents of or subjects discussed in the document have been discussed; and
- h. if more than one copy of the document or any draft thereof exists that is different in any way from the document or draft, by the addition of written material or otherwise, with respect to each such document or draft describe the manner in which it is different, and if it is different because of the addition of any written material, whether handwritten, typed or otherwise, summarize the subjects discussed by such written material and state where the document is located and identify the current custodian of the document.

8. If any document Plaintiffs are asked to produce has been lost or destroyed, with respect to each such document, Plaintiffs are to:

- a. State the manner in which the document was lost or destroyed and identify the person who had possession of the document when it was lost or destroyed.
 - i. State the date or approximate date it was lost or destroyed;
 - ii. summarize the contents of and subjects discussed in the document; and
 - iii. to the extent possible, identify the document.

9. This discovery request is continuing, and any additional or new responsive information or documents should be produced as Plaintiffs become aware of them.

10. If any information called for by any interrogatory is not available in the full detail requested, such interrogatory shall be deemed to require the setting forth of the information related

to the subject matter of the request in such detail as is available, including, where no specific information is available, identifying and describing the method by which any estimate is made.

11. As to any additional definition which Plaintiffs feel is necessary to aid them in answering any interrogatory, Plaintiffs shall apply that definition which they believe to be either the most common or most accurate and shall state that definition in their response to such interrogatory.

12. If Plaintiffs believe that all or any part of an interrogatory would invade any privilege which they desire to assert, Plaintiffs shall nonetheless respond to each part of the interrogatory or request which does not invade the asserted privilege. As to each part for which any privilege is claimed, Plaintiffs shall state the basis for the assertion of the privilege and sufficient information so as to apprise the party serving these discovery requests and the Court of the nature and extent of the privilege asserted.

13. If Plaintiffs attempt to answer any interrogatory by production of documents, they shall designate which documents are responsive to which interrogatory or request, including the subsection thereof, as required by Rule 33(d) of the Utah Rules of Civil Procedure.

14. With respect to any of the following interrogatories or part thereof as to which Plaintiffs, after answering, acquire additional knowledge, information, or documents, Plaintiffs are requested to serve further answers to such interrogatories within twenty-eight (28) days after acquiring such additional information, knowledge, or documents.

INTERROGATORIES

Pursuant to Rule 33 of the Utah Rules of Civil Procedure, Plaintiffs are requested to answer the following Interrogatories in writing and under oath within twenty-eight (28) days after service hereof.

INTERROGATORY No.:

1. (See Rule 26 of the Utah Rules of Civil Procedure) Identify (by name, address, telephone number, e-mail address, relation to the parties, and substantive summary of the testimony expected to be elicited from) each person Plaintiffs expect to call as lay or expert witnesses at any hearing (pending or future, as Plaintiffs receive notice of the hearing) or trial in this action. For any expert witness(es) identified in response hereto, Plaintiffs are to provide the information required by URCP Rule 26, as well as the field in which the witness is claimed to be an expert, the formal education and specialized training the witness has received, the licenses and professional experience and work the witness has and has had in his or her field since entering the field; the compensation, if any, the witness is to receive for work and efforts in connection with this litigation, the substance of the facts and opinions to which the witness is expected to testify, whether any professional licenses ever held by the witness has been suspended or revoked (and if so, what entity so revoked or suspended, and the date of said revocation or suspension), and all reasons for such suspension or revocation.

RESPONSE:

2. For each document or other item Plaintiffs intend to offer at the time of trial as an exhibit, Plaintiffs are to state the title of the document, describe the content of the document, and the purpose for which it will be used at the time of trial.

RESPONSE:

3. Plaintiffs are to identify in detail the factual basis (the complete factual basis, not misrepresentations, half-truths, speculation, conjecture, suspicion, fiction, or personal beliefs) for each and every denial, claim, and/or defense they assert in this action.

RESPONSE:

4. Plaintiffs are to identify in detail and by possessor (name, address, telephone number, e-mail address), location, and a brief description each and every alleged fact and item of evidence that they assert supports their claims asserted in this pending action.

RESPONSE:

REQUESTS FOR ADMISSION

Pursuant to Utah Rules of Civil Procedure, Rule 36 (Request for admission), Defendant serves Plaintiffs with these written requests to admit the truth of the following matters. The matters will be deemed admitted unless Plaintiffs respond within 28 days after service of the requests.

REQUESTS FOR ADMISSION No.:

1. Admit that Plaintiff Horatio visited the Project, located on 245 S Ideal Neighborhood Road, Logan, Utah 84301, while it was under construction, knowing that doing so would pose a reasonable risk of injury to himself.

RESPONSE:

2. Admit that despite knowing that visiting the Project while it was under construction would a pose a significant risk of injury, Horatio chose to do so regardless, on multiple occasions, therefore assuming the risk of injury associated thereto.

RESPONSE:

3. Admit that Defendant communicated with Plaintiffs on a regular basis and in a manner that satisfactorily updated them regarding the Project's progress.

RESPONSE:

4. Admit that it is unreasonable for Plaintiffs to hold Defendant liable for Plaintiff Horatio's own conduct, namely, his choosing to visit the Project on multiple occasions.

RESPONSE:

5. Admit that Defendant did not offer Plaintiffs to build them a house for half of the average cost of other contractors.

RESPONSE:

6. Admit that Defendant agreed to build a house for Plaintiffs for the lump sum amount of \$450,000.00.

RESPONSE:

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION No.:

1. Produce any and all documents identified in, related to, or to which Plaintiffs referred in making their responses to Defendant's interrogatories above.

RESPONSE:

2. Produce all documents in Plaintiffs' possession or in their control that they believe are relevant to the issues raised in the pleadings by the parties.

RESPONSE:

3. Produce legible and unredacted copies of each and every document (including, but not limited to, any expert report or other statement by any expert or experts) that Plaintiffs may introduce at the time of any hearing or at trial in this pending action.

RESPONSE:

4. Produce any and all documents supporting Plaintiffs' allegation that Defendant offered to build them a house for half of the average cost of other contractors.

RESPONSE:

5. Produce any and all documents in Plaintiff's possession or accessible to Plaintiffs that they assert support any claim they have made regarding their alleged repeated attempts to communicate with Defendant throughout the course of the Project's construction.

RESPONSE:

DATED June 25, 2018.

ALTIOREM LEGAL SERVICES, PLLC

/s/ Saul Goodman

Saul Goodman,

Attorney for Defendant

CERTIFICATE OF SERVICE

On June 25, 2018, I caused to be served, via e-mail, a true and correct copy of the foregoing upon:

Opposing Counsel

/s/ Saul Goodman