

Hon. Barbara Linde
Hearing Date/Time:
November 16, 2012 at 11:00 a.m.
With Oral Argument

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

TENNYSON HOMES, INC., an inactive
Washington corporation,

Plaintiff,

v.

ALL AMERICAN WATERPROOFING, LLC,
a Washington limited liability company;
GREGORY D. OPEL, dba BEDROCK
CONCRETE; DOUGLAS D. DIEL, dba DIEL
& SONS; TAD THARP, dba FIRST CHOICE
CONSTRUCTION; LEGACY ROOFING,
INC., a Washington corporation; NYREEN E.
WHEELER, dba N.O.W. CONSTRUCTION;
NW SIDING & PREFINISHING, INC., a
Washington corporation; PAHLKA
WATERPROOFING, INC., a Washington
corporation; SNOHOMISH COUNTY
EXCAVATING, INC., a Washington
corporation; WATERTITE GUTTER
COMPANY, aka NORTHWEST HOMES OF
BELLEVUE, INC., a Washington corporation;
and DOES 1-100, inclusive,

Defendant.

No. 11-2-32077-4 SEA

ORDER GRANTING MOTIONS
FOR SUMMARY JUDGMENT BY
DEFENDANTS DOUGLAS D. DIEL
dba DIEL & SONS, ALL AMERICAN
WATERPROOFING, LLC, TAD
THARP dba FIRST CHOICE
CONSTRUCTION, NW SIDING &
PREFINISHING, INC., AND
SNOHOMISH COUNTY
EXCAVATING, INC.

[PROPOSED] *bl*

THIS MATTER having come on to be heard before the undersigned Judge of the above-
referenced matter, and the Court being fully advised in the premises and reviewing:

ORDER GRANTING DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT [PROPOSED] - 1

CLEMENT & DROTS FLLC
ATTORNEYS AT LAW
PIER 70 - 2801 ALASKAN WAY, SUITE 300
SEATTLE, WASHINGTON 98101
TELEPHONE (206) 448-2585
FACSIMILE (206) 448-2823

- 1 1. Defendant Douglas D. Diel dba Diel & Sons' Motion for Summary Judgment
2 of Dismissal Re Statutes of Limitations and Inapplicability of Contribution
3 Statute and Alternate Motions for Partial Summary Judgment Re: Negligence,
4 Indemnity, Contribution, and Breach of Warranty;
- 5 2. Declaration of Daniel L. Dvorkin in Support of Defendant Douglas D. Diel dba
6 Diel & Sons' Motions for Summary Judgment;
- 7 3. Defendant Douglas D. Diel dba Diel & Sons' Reply in Support of its Motion
8 for Summary Judgment of Dismissal Re Statutes of Limitations and
9 Inapplicability of Contribution Statute and Alternate Motions for Partial
10 Summary Judgment Re: Negligence, Indemnity, Contribution, and Breach of
11 Warranty;
- 12 4. Declaration of Steven W. Bechtold in Support of Defendant Douglas D. Diel
13 dba Diel & Sons' Response in Opposition to Plaintiff's Motion for Partial
14 Summary Judgment;
- 15 5. Defendant All American Waterproofing, LLC's Joinder in Defendant Douglas
16 Diel D/B/A Diel & Sons' Motions for Summary Judgment;
- 17 6. Declaration of Marnie H. Silver in Support of Defendant All American
18 Waterproofing, LLC's Joinder in Defendant Douglas Diel D/B/A Diel & Sons'
19 Motions for Summary Judgment;
- 20 7. Reply in Support of Defendant All American Waterproofing, LLC's Joinder in
21 Defendant Douglas D. Diel D/B/A Diel & Sons' Motions for Summary
22 Judgment;
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- 1 8. Declaration of Jack Stanton in Support of Defendant All American
- 2 Waterproofing, LLC's Opposition to Plaintiff's Motion for Partial Summary
- 3 Judgment;
- 4 9. Defendants First Choice Construction and Tad Tharp's Joinder in Douglas D.
- 5 Diel D/B/A Diel & Sons' Motion for Summary Judgment;
- 6 10. Declaration of Tad Tharp;
- 7 11. Reply in Support of Defendants First Choice Construction and Tad Tharp's
- 8 Joinder in Douglas D. Diel D/B/A Diel & Sons' Motion for Summary
- 9 Judgment;
- 10 12. Defendant Snohomish County Excavating, Inc.'s Joinder in Douglas D. Diel
- 11 D/B/A Diel & Sons' Motions for Summary Judgment;
- 12 13. Declaration of Timothy Shea in Support of Defendant Snohomish County
- 13 Excavating, Inc.'s Joinder in Douglas D. Diel D/B/A Diel & Sons' Motions for
- 14 Summary Judgment;
- 15 14. Reply in Support of Defendant Snohomish County Excavating, Inc.'s Joinder
- 16 in Douglas D. Diel D/B/A Diel & Sons' Motions for Summary Judgment
- 17 15. NW Siding & Prefinishing, Inc.'s Opposition to Tennyson Homes, Inc.'s
- 18 Motion for Partial Summary Judgment;
- 19 16. Declaration of Terry West;
- 20 17. Declaration of Eric Johnson in Support of NW Siding & Prefinishing, Inc.'s
- 21 Opposition to Plaintiff Tennyson Homes, Inc.'s Motion for Partial Summary
- 22 Judgment;
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1 18. Supplemental Declaration of Eric Johnson in Support of NW Siding &
2 Prefinishing, Inc.'s Opposition to Plaintiff Tennyson Homes, Inc.'s Motion for
3 Partial Summary Judgment;

4 19. Tennyson Homes, Inc.'s Response in Opposition to Defendant Douglas D. Diel
5 D/B/A Diel & Sons' Motions for Summary Judgment and Joinders by All
6 American Waterproofing, LLC, Snohomish County Excavating, Inc. and Tad
7 Tharp D/B/A First Choice Construction;

8 20. Declaration of Rachele L. McPetridge in Opposition to Defendant Douglas
9 Diel D/B/A Diel & Sons' Motions for Summary Judgment and Joinders by All
10 American Waterproofing, LLC, Snohomish County Excavating, Inc. and Tad
11 Tharp D/B/A First Choice Construction; and

12 the Court's case file and records therein; it is hereby ORDERED, ADJUDGED and
13 DECREED that:

14 Defendants Douglas D. Diel dba Diel & Sons', American Waterproofing, LLC's, Tad Tharp
15 dba First Choice Construction's, Snohomish County Excavating, Inc.'s, and NW Siding &
16 Prefinishing, Inc.'s (collectively the "Moving Parties") Motion for Summary Judgment is
17 hereby GRANTED in its entirety, and Plaintiff's Complaint against the Moving Parties is
18 dismissed with prejudice.

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20 DATED this 28 day of NOVEMBER, 2012.

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22 

23 Judge Barbara Linde

1 **Presented By:**

2 **CLEMENT & DROTZ, PLLC**

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W. Scott Clement, WSBA No. 16243
Daniel L. Dvorkin, WSBA No. 32776
5 Attorneys for Defendant Douglas D. Diel
6 dba Diel & Sons

7 **JAGER LAW OFFICE, PLLC**

8
9

Steven J. Jager, WSBA #10942
Marnie H. Silver, WSBA #34002
10 Attorneys for All American Waterproofing, LLC

11
12
13 **LAW OFFICES OF JAMES W. TALBOT**

14
15

James W. Talbot, WSBA #22082
16 Attorney for Defendant Tad Tharp dba
First Choice Homes

17 **LEE SMART, P.S., INC.**

18
19

Steven G. Wraith, WSBA #17364
Timothy D. Shea, WSABA #39631
20 Attorneys for Defendant Snohomish
21 County Excavating, Inc.

22 **LAW OFFICES OF ERIC BRIAN JOHNSON**

23

**ORDER GRANTING DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT [PROPOSED] - 5**

**CLEMENT & DROTZ PLLC
ATTORNEYS AT LAW
FIER 70 - 2801 ALABRAN WAY, SUITE 300
SEATTLE, WASHINGTON 98121
TELEPHONE (206) 448-2363
FACSIMILE (206) 448-2235**

1 Eric B. Johnson, WSBA #19340
2 Attorney for Defendant NW Siding & Prefinishing, Inc.

3 Approved as to form:

4 **LORBER GREENFIELD & POLITO, LLP**

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6 _____
7 Bruce W. Lorber, WSBA #43796
8 Shane D. McPetridge, WSBA #32746
9 Rachelle L. McPetridge, WSBA #32844
10 Attorneys for Plaintiff Tennyson Homes, Inc.
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