

2. Further, Plaintiffs' residence and Plaintiffs' personal property and household goods and contents have been damaged as a result of the chemical compounds in the drywall. Specifically, the drywall has caused damage to Plaintiffs' mechanical systems, copper wiring, washing machine coils, air conditioner coils, and electrical wiring, as well as Plaintiffs' personal electronics, appliances and jewelry.

3. Plaintiffs have been exposed to a substantial and unreasonable risk of foreseeable physical harm. Plaintiffs' health has been seriously impaired as a result of their exposure to the drywall. Specifically, Plaintiffs' physical ailments include, but are not limited to, respiratory distress, allergic reactions, headaches, eye irritation, flu-like symptoms, pneumonia and other ongoing medical conditions. Plaintiffs have therefore suffered personal injuries as a result of their exposure to the sulfur, other organic compounds, and/or poisonous or noxious chemicals emanating from the drywall.

4. In order to properly remedy the problems caused by the defective drywall, Stafford must compensate Plaintiffs for the diminution in property value, the removal and replacement of the defective drywall, the cost to reconstruct Plaintiffs' residence, the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' medical expenses due to being exposed to the defective drywall.

5. Stafford knew or in the exercise of reasonable care should have known that the drywall would cause the problems described above.

JURISDICTION AND VENUE

6. The subject matter jurisdiction over this cause and personal jurisdiction over Stafford is conferred upon and vested in this Court under and by virtue of N.C.G.S. §§ 1-75.4, 7A-240 and 7A-243.

7. Venue for this cause is properly laid in this Court pursuant to and in accordance with N.C.G.S. §§ 1-76, 1-77, 1-79, and 1-82.

THE PARTIES

8. Plaintiffs are, and at all relevant times hereto, citizens and residents of Holly Springs, Wake County, North Carolina. Specifically, Plaintiffs reside at 112 Stone Barn Circle, Holly Springs, North Carolina, 27540.

9. Stafford is a domestic corporation formed under the laws of the State of North Carolina with its principal place of business located at 246 Valleyfield Lane, Southern Pines, North Carolina 28387. At all times relevant to matters raised herein, Stafford was engaged in the general contracting business and construction of residential homes in North Carolina.

FACTUAL ALLEGATIONS

10. On or about April 15, 2004, Plaintiffs and Stafford entered into a contract ("Contract"). The Contract required Stafford to sell Plaintiffs the residence Stafford was in the process of constructing at 112 Stone Barn Circle, Holly Springs, North Carolina 27540 ("the property" or "the residence"). Stafford owned the land upon which the residence was constructed. On April 27, 2004, Stafford received a certificate of occupancy from the Holly Springs Inspection Department for the residence. On or about May 7, 2004, Plaintiffs closed on the residence and subsequently moved into the residence.

11. Plaintiffs have paid Stafford all sums properly due and owing to Stafford under the Contract. Plaintiffs are informed and believe the residence was constructed by Stafford and its subcontractors.

12. By reason of the construction of the residence and the sale of the property to Plaintiffs, Stafford is a “builder/vendor.”

13. Stafford, at the time of entering into the contract with Plaintiffs, and at the time of sale to Plaintiffs, was aware that Plaintiffs were relying on Stafford’s skill and ability to inform Plaintiffs that said residence was:

- (a) Constructed in a workmanlike manner, free from structural defects, free from toxic and/or harmful materials or poisonous and noxious chemicals detrimental to the health and well being of its occupants; and constructed with skill and care in a manner so as to meet the requisite standard of workmanlike quality; and
- (b) Constructed in a manner that was in compliance with all relevant codes and regulations; the plans and specifications; with quality materials, including manufacturer’s specifications and architectural/drafter’s plans and specifications.

14. Stafford impliedly and expressly represented to Plaintiffs that Stafford had the ability to construct houses of the highest quality, that Stafford had reviewed the plans and specifications for the residence and that the same were adequate, that Stafford would comply with and construct the residence in accordance with the plans and specifications, that Stafford would comply with all laws and regulations concerning the construction of the residence, that Stafford would construct the residence with quality materials and that Stafford had the ability to supervise all subcontractors.

15. Furthermore, Stafford impliedly represented that the materials used to construct the residence would be free from sulfur, other organic compounds, and/or poisonous or noxious chemicals that would harm the health of occupants of the residence or damage any other property within the residence.

16. The Contract between Stafford and Plaintiffs states that it is a condition of the contract that the walls “shall be performing the function for which intended and shall not be in need of immediate repair” and “there shall be no . . . *existing environmental contamination.*” (emphasis added).

17. Plaintiffs are informed and believe that the walls are not performing the function for which they are intended and need immediate repair. In addition, there is an existing environmental contamination within the residence because drywall contains sulfur, other organic compounds, and/or poisonous or noxious chemicals.

18. Plaintiffs are further informed and believe that the drywall was of substandard quality, manufactured in China, among other things, was not oxidized properly and contains sulfur and/or other organic compounds that release noxious or poisonous chemicals. These components of the drywall and/or the chemicals emanating from the drywall harm the health of individuals subjected to prolonged exposure and damages, among other things, any and all metals subjected to prolonged exposure.

19. Plaintiffs are also informed and believe that Stafford made a conscious decision to purchase drywall of substandard quality rather than purchase drywall of standard quality that was manufactured by a reputable drywall manufacturer.

20. Prior to purchasing the residence, Plaintiffs noticed a sulphur or “rotten eggs” smell permeating throughout the residence. Plaintiffs asked representatives of Stafford about the smell, but were assured it was merely fumes from the hot water heater that had been sitting idle for more than a year. Since Plaintiffs possessed no expertise in construction matters, they accepted Stafford’s explanation.

21. As a result of being exposed to the defective drywall, in or about May, 2007, the evaporator coils attached to the existing gas fired furnace had become corroded and needed replacement after less than three years of use. In or about September, 2007, Plaintiffs found additional corroded coils and other property throughout the residence that had corroded. In or about April 2008, Plaintiffs discovered that the entire heating and air ventilation system was failing and needed replacement.

22. As a result of their exposure to the defective drywall, Plaintiffs have become allergic or reactive to a large number of environmental agents, manifesting significant respiratory symptoms associated with severe allergies and chemical sensitivities. Plaintiffs have had serious and persistent health symptoms for substantial periods of time including but not limited to shortness of breath, and heightened sensitivity to a number of chemical and naturally occurring substances present in indoor air. Plaintiffs have also suffered from severe headaches and eye irritation. In addition, Plaintiff, Mary Flannigan, also developed frequent cases of pneumonia, sore throats, and enlarged tonsils.

23. Plaintiffs are informed and believe it was foreseeable that the drywall installed in the residence would harm the health of the individuals living in the Residence and would cause damage to the home structure and mechanical systems, such as copper piping, air conditioner coils, washing machine coils and electrical wiring, as well as other personal property. Stafford knew or reasonably should have known that the drywall would cause the problems described above, but failed to disclose these facts to Plaintiffs. Stafford had exclusive possession of this information and knowledge.

24. In order to properly remedy the problems caused by the defective drywall, Stafford must compensate Plaintiffs for the diminution in property value, the removal and replacement of the defective drywall, the cost to reconstruct Plaintiffs' Residence, the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' medical expenses due to being exposed to the defective drywall.

25. All conditions precedent for filing this Complaint have been satisfied. This Complaint has been filed prior to the expiration of any applicable statutes of limitations or statutes of repose.

COUNT I
Breach of Contract

26. Plaintiffs reallege and incorporate by reference paragraphs 1-25 of their Complaint as if fully set forth herein.

27. Plaintiffs purchased their residence directly from Stafford. Implicit to the purchase agreement was the understanding that the residence constructed in compliance with all applicable standards and building codes and, specifically, the interior drywall was manufactured by a reputable drywall manufacturer and did not contain sulfur, other organic compounds, and/or poisonous or noxious chemicals.

28. Further, the Contract signed by Plaintiffs and Stafford states that it is a condition of the contract that the walls "shall be performing the function for which intended and shall not be in need of immediate repair" and "there shall be no . . . *existing environmental contamination.*" (emphasis added).

29. However, as discussed herein, the walls are not performing the function for which they are intended and need immediate repair. In addition, there is an existing environmental contamination within the residence because the drywall contains sulfur,

other organic compounds, and/or poisonous or noxious chemicals. Further, the residence does not comply with all applicable standards and building codes.

30. Therefore, Stafford breached its Contract with Plaintiffs.

31. Due to Stafford's breaches of the Contract, Plaintiffs have sustained damages, including, but not limited to the diminution in property value, all costs associated with the removal and replacement of the defective drywall, all costs necessary to reconstruct Plaintiffs' residence, all costs associated with the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' past and future medical expenses due to being exposed to the defective drywall. Said damages were within the reasonable contemplation of the parties at the time of the execution of the Contract.

32. Moreover, if Plaintiffs had known the true facts about the defective drywall they would not have purchased the residence from Stafford.

33. As a direct and proximate cause of Stafford's breach of contract, Plaintiffs have incurred damages in an amount in excess of ten thousand dollars (\$10,000).

COUNT II
Breach of Implied Warranties

34. Plaintiffs reallege and incorporate by reference paragraphs 1-33 of their Complaint as if fully set forth herein.

35. As stated herein, Plaintiffs contracted to buy the residence from Stafford who was in the business of constructing single family residences.

36. At the time Plaintiffs purchased the residence from Stafford, the residence was new construction.

37. Pursuant to the Contract and applicable law, Stafford impliedly warranted to Plaintiffs that the residence was free from substantial defects and was constructed in a workmanlike manner in accordance with the standard of workmanlike quality prevailing at the time and place of construction.

38. By operation of law, as a builder/vendor, Stafford also impliedly warranted that the house would also be habitable.

39. Stafford breached its implied warranty because the work was not of a workmanlike quality prevailing at the time of construction and failed to satisfy the applicable standards of habitability because the residence and, specifically, the drywall contained numerous latent defects emitting poisonous or noxious chemicals rendering the residence uninhabitable.

40. Plaintiffs, who were original vendees, did not and could not, by reasonable inspection, have discovered the defects in the residence and specifically in the drywall arising from said Stafford's breaches of the warranties of habitability and workmanship at the time construction was completed.

41. Due to Stafford's breaches of the implied warranties, Plaintiffs have sustained damages, including, but not limited to the diminution in property value, all costs associated with the removal and replacement of the defective drywall, all costs necessary to reconstruct Plaintiffs' residence, all costs associated with the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' past and future medical expenses due to being exposed to the defective drywall.

42. As a direct and proximate cause of Stafford's breaches of the implied warranties, Plaintiffs have incurred damages in an amount in excess of ten thousand dollars (\$10,000).

COUNT III
Breach of Express Warranties

43. Plaintiffs reallege and incorporate by reference paragraphs 1-42 of their Complaint as if fully set forth herein.

44. As stated herein, Plaintiffs purchased their residence directly from Stafford. Pursuant to the Contract and Stafford's express representations, Stafford represented that the walls "shall be performing the function for which intended and shall not be in need of immediate repair" and "there shall be no . . . *existing environmental contamination.*" (emphasis added). In addition, Stafford also provided an express warranty that the residence was constructed in compliance with all applicable standards and building codes.

45. However, as set forth herein, the walls are not performing the function for which they are intended and need immediate repair. In addition, there is an existing environmental contamination within the residence because drywall contains sulfur, other organic compounds, and/or poisonous or noxious chemicals. Further, the residence was not constructed in compliance with all applicable standards and building codes.

46. At the time of closing, Plaintiffs had no knowledge that the residence was constructed with defective drywall. The latent problems and defects with the drywall were unknown to Plaintiffs and occurred and manifested within the applicable warranty period.

47. Therefore, Stafford breached its express warranties with Plaintiffs.

48. Due to Stafford's breaches of express warranties, Plaintiffs have sustained damages, including, but not limited to the diminution in property value, all costs associated with the removal and replacement of the defective drywall, all costs necessary to reconstruct Plaintiffs' residence, all costs associated with the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' past and future medical expenses due to being exposed to the defective drywall.

49. As a direct and proximate cause of Stafford's breach of express warranties, Plaintiffs have incurred damages in an amount in excess of ten thousand dollars (\$10,000).

COUNT IV
Negligence

50. Plaintiffs reallege and incorporate by reference paragraphs 1-49 of their Complaint as if fully set forth herein.

51. Stafford owed a duty to Plaintiffs to exercise reasonable care in constructing the residence to insure that the residence was constructed with materials that would not harm the inhabitants or the other property within the residence. Stafford also had a duty to warn Plaintiffs about any unsafe materials used in the construction of the residence known by Stafford.

52. Stafford breached its duty to exercise reasonable care in constructing the residence by:

- (a) causing and/or allowing defective drywall to be installed within the residence;
- (b) failing to investigate whether the drywall would harm inhabitants of the residence or damage other property within the residence;

- (c) failing to construct the residence in compliance with all applicable standards and the building codes;
- (d) failing to warn Plaintiffs that the residence contained defective drywall that could damage their health and/or property;
- (e) failing to investigate the true nature of the sulphur smell in Plaintiffs' residence;
- (f) failing to take reasonable measures that Stafford knew, or reasonably should have known, were necessary to protect the Plaintiffs from hazards associated with the defective drywall;
- (g) failing to exercise reasonable care in its quality control practices;
- (h) failing to take such other precautions as may be revealed through discovery.

53. If Stafford had exercised reasonable care, it would have investigated the defective drywall and its untoward side-effects prior to installing the drywall in the residence. Further, Stafford could have warned Plaintiffs that the defective drywall may cause the problems described herein.

54. Stafford's failure to exercise reasonable care constitutes a breach of duty. The defects in the drywall were latent and could not have been reasonably discovered by Plaintiffs.

55. Due to Stafford's negligence, Plaintiffs have sustained damages, including, but not limited to the diminution in property value, all costs associated with the removal and replacement of the defective drywall, all costs necessary to reconstruct Plaintiffs' residence, all costs associated with the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' past and future medical expenses due to being exposed to the defective drywall.

56. As a direct and proximate cause of Stafford's negligence, Plaintiffs have incurred damages in an amount in excess of ten thousand dollars (\$10,000).

Count V
Negligent Misrepresentation

57. Plaintiffs reallege and incorporate by reference paragraphs 1-56 of their Complaint as if fully set forth herein.

58. Stafford's representations and omissions as set forth above, regarding the quality and characteristics of the residence and the drywall within the residence were reckless or negligent misrepresentations of material facts. Further, when questioned about the sulphur or "rotten egg" smell, Stafford assured Plaintiffs that the smell was due to the hot water heater sitting idle for more than a year rather than the defective drywall. Since Plaintiffs possessed no expertise in construction matters, they accepted Stafford's explanation.

59. Stafford made these representations either intentionally, without knowledge of their truth or falsity, or negligently, to induce Plaintiffs to act thereon, and Plaintiffs did, without knowing the truth or falsity, directly or indirectly, justifiably and reasonably acted upon said misrepresentations to their injury, as evidenced by the purchase of the residence directly from Stafford.

60. Stafford either knew, or should have known, that the drywall was defective, unsafe and poorly manufactured and would cause corrosion of, among other things, electrical wiring, air conditioner coils, plumbing and other personal property throughout the residence and that it would be detrimental to Plaintiffs' health.

61. Stafford was under a duty to disclose this information to Plaintiffs because Stafford was in a superior position to know the true facts about these hidden defects in

the drywall and its known repercussions to Plaintiffs and the residence because the defects were latent.

62. Due to Stafford's negligent misrepresentations, Plaintiffs have sustained damages, including, but not limited to the diminution in property value, all costs associated with the removal and replacement of the defective drywall, all costs necessary to reconstruct Plaintiffs' residence, all costs associated with the repair or replacement cost of damaged property in the residence, Plaintiffs' personal injuries and Plaintiffs' past and future medical expenses due to being exposed to the defective drywall.

63. As a direct and proximate cause of Stafford's negligent misrepresentations, Plaintiffs have incurred damages in an amount in excess of ten thousand dollars (\$10,000). Plaintiffs are also entitled to punitive damages.

COUNT VI
Unfair and Deceptive Trade Practices

64. Plaintiffs reallege and incorporate by reference paragraphs 1-63 of their Complaint as if fully set forth herein.

65. Stafford acted in a manner which had the capacity or tendency to deceive and acted unfairly.

66. Stafford either knew, or should have known, that the drywall, was defectively manufactured in China, which would result in severe economic and physical damages to the Residence and Plaintiffs, such that the Residence were not as represented to be by Stafford as alleged herein.

67. Despite the foregoing, Stafford failed to inform or educate Plaintiffs about the defects and deficiencies in the drywall at the time of contracting or at the closing on Plaintiffs' residence. Stafford was in a superior position to know the true facts about the

hidden defects of the drywall and the known repercussions to Plaintiffs health and the other property within the residence. Stafford's actions and conduct had the tendency to deceive Plaintiffs and did deceive Plaintiffs to their detriment.

68. Stafford's actions, as set forth herein, were acts in or affecting commerce and constitute unfair and deceptive trade practices in violation of N.C. Gen. Stat. §§ 75-1.1 et seq.

69. As a direct and proximate cause of Stafford's unfair and deceptive trade practices, Plaintiffs have incurred damages in an amount in excess of ten thousand dollars (\$10,000).

70. By reason of the foregoing, Plaintiffs are entitled to have their damages trebled and have the costs of this action, including reasonable attorney's fees, taxed against the defendants pursuant to N.C. Gen. Stat. § 75-16 and N.C. Gen. Stat. § 75-16.1.

PRAYER FOR RELIEF

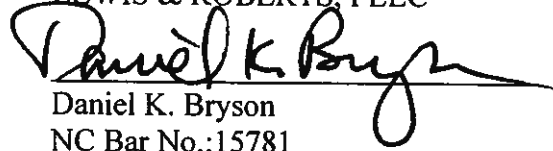
WHEREFORE, Plaintiffs, pray for a judgment against Stafford as follows:

1. Plaintiffs have and recover of Stafford damages in an amount in excess of ten thousand dollars (\$10,000) said amount to be proven at the trial of this action;
2. The costs of this action be taxed against Stafford, including Plaintiffs' attorneys' fees and costs;
3. For compensatory damages sustained by Plaintiffs;
4. For equitable and/or injunctive relief;
5. For both pre-judgment and post-judgment interest on any amounts awarded;
6. For treble damages for Stafford's unfair and deceptive trade practices as provided in N.C.Gen.Stat. § 75-16;

7. Plaintiffs have a trial by jury on all issues so triable; and
8. For such other and further relief as this Court deems just and proper.

This the 6th day of April, 2009.

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