

DISTRICT COURT, MESA COUNTY, COLORADO 125 N. Spruce Street, Grand Junction, CO 81501 Phone: (970) 257-3640	DATE FILED: October 9, 2023 3:17 PM
<b>PLAINTIFFS: JOSEPH ARTHUR RYAN</b> , an individual, and <b>BARBARA ANN RYAN</b> , an individual  v.  <b>DEFENDANTS: CHRONOS HOMES, LLC</b> , a Colorado limited liability company, and <b>CODY DAVIS</b> , an individual	<COURT USE ONLY>
<i>Attorneys for Plaintiffs:</i> Coleman & Quigley, LLC Joseph Coleman #6856 Isaiah Quigley #46621 Stuart R. Foster #54092 2454 Patterson Road, Suite 210 Grand Junction, CO 81505 Phone: (970) 242-3311 Email: <a href="mailto:Joe@cqlawfirm.net">Joe@cqlawfirm.net</a> ; <a href="mailto:Isaiah@cqlawfirm.net">Isaiah@cqlawfirm.net</a> ; <a href="mailto:Stuart@cqlawfirm.net">Stuart@cqlawfirm.net</a>	Case No. 2022CV30210 Division 12
<b>AFFIDAVIT OF BARBARA ANN RYAN</b>	

I, Barbara Ann Ryan, being first duly sworn upon my oath, declare and state as follows:

1. I am over the age of eighteen and a resident of the State of Colorado. I have personal knowledge regarding the facts stated below as I with my late husband Joseph Arthur Ryan purchased the real property that is the subject matter of this dispute from and interacted directly with Chronos Homes, LLC (“Chronos”) and Cody Davis regarding the defects and damage we experienced following our purchase.

2. In 2017, I and my late husband began looking to purchase a home in the Grand Junction as we were relocating from Elizabeth Colorado.

3. We ultimately found a home we liked, which was a new build located at 1390 Horseshoe Drive, Fruita, Colorado 81521 (the “Residence”).

4. In looking at the Residence, we understood that it was newly built by Chronos and had no other owners.

5. We knew nothing about and were never informed of the native soils and the soils issues that were endemic to the areas where Chronos constructed the Residence. We were also unaware of the foundation that was selected by Chronos and its inherent risks.

Exhibit 1

6. All we knew was that we liked the Residence and wanted to make it our forever home.

7. Coming to this decision, we decided to make Chronos an offer to purchase the Residence that was ultimately accepted. We then went under the contract on the Residence and mutually executed the "Contract to Buy Real Estate (Residential)" on June 15, 2017 (the "Contract"). I have reviewed the Contract attached as Defendants' Exhibit A and confirm that it is a true and accurate copy of the Contract that myself, my late husband, and Chronos executed.

8. During the preliminary stages of our purchase of the Residence, Chronos furnished us with an Addendum. Importantly, as it influenced our decision to not have an inspection performed or to require a seller's disclosure under Sections 10.2, 10.3 and 10.1 of the Contract, the Addendum made the following representations on behalf of Chronos that we relied upon in our decision to purchase the Residence as well as not require a sellers disclosure or an inspection of the Residence:

- Paragraph 5 of the Addendum provided as follows: "REFERENCE SECTION 10.2 'INSPECTION.' THIS HOME IS NEW CONSTRUCTION. BUYER RETAINS THE RIGHT TO INSPECT, HOWEVER, THE HOME HAS BEEN BUILT IN ACCORDANCE WITH MESA COUNTY CONSTRUCTION CODE. ONLY ITEMS COSMETIC OR MECHANICAL IN NATURE WILL BE ADDRESSED."

- Paragraph 11 provided as follows: "NO SELLERS PROPERTY DISCLOSURE WILL BE PROVIDED."

I have reviewed the Addendum attached as Exhibit 2 and can confirm that it is a true and accurate copy of the Addendum we received from Chronos.

9. Being that we were told that the Residence was a newly constructed home and based on the Addendum, no sellers disclosures were made and we did not have an inspection completed. This was because the Addendum and Mr. Davis assured us that neither was needed due to the Residence being a newly constructed home.

10. Despite this, per Section 10.6.1.2. of the Contract, Chronos was required to deliver documents in its possession that, as relevant here were to include Soils Reports and Engineering Reports.

11. The only document we received in this regard was the Capstone Enterprises West, LLC ("Capstone") inspection report via our realtor. I have reviewed the Capstone report attached as Defendant's Exhibit D and confirm that it is a true and accurate copy of the Capstone report.

12. We, however, never received or were provided during the purchase of the Residence with the report authored by Huddleston-Berry Engineering & Testing, LLC (“HB”). I have reviewed the HB report attached as Defendant’s Exhibit C and can confirm that it is a true and accurate copy of the HB report.

13. At no point during the negotiation and purchase of the Residence, did anyone disclose or inform us of the risky nature of the foundation that was selected for the Residence and elevated risk such foundation was susceptible to based on the soils in the area.

14. Had this been disclosed to us, the selection of a foundation with inherent risks would have completely altered the decision-making process surrounding the purchase of the Residence, with the purchase being very unlikely. Otherwise, it would have substantially impacted the price we were willing to pay for the Residence and other price considerations in purchasing the Residence.

15. Since we lacked this crucial knowledge, we ultimately purchased the Residence from Chronos.

16. Then in 2019, we began witnessing signs of the certain defects that began presenting and persisting throughout the Residence: (a) Cracking in the walls, ceilings and concrete; (b) wall and floor movement and deflection; (c) Heaving and lifting of the garage floor; (d) detachment of the areas between the ceiling and walls.

17. We then alerted Mr. Davis of the defects. Mr. Davis then, personally, led an investigation into determining the damages and their cause.

18. This then began the continued efforts to conceal the known realities (realities that were continued to be hidden from us) that the foundation was to blame for the defects.

19. Minor cosmetic fixes were made, although the extent and nature of the damage and its cause was never told to us during this time. Mr. Davis also asked for additional time to figure the true nature and cause of the defects, despite his knowing that the foundation was to blame and continuing not to inform us of this critical fact.

20. Despite these cosmetic fixes, the defects persisted into 2020 and required further repairs.

21. At all times, Mr. Davis assured us that the problems would be addressed and remedied, and that time was necessary to gather the information that would remedy the problems. All the while Mr. Davis knew the true cause of the problems was the foundation and never informed us of this fact.

