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Baker Law Group is excited to welcome our new team members - Robert Harper, Alex Lejeune, and Matthew Rogers. We are thankful for the amazing team of attorneys and staff members, current and new, who work hard to provide the highest quality of comprehensive legal services to our clients every day.

They are dedicated to their work and are always looking for ways to improve our client experience. I am grateful for their passion and commitment to excellence, and know that they will never stop looking for the right resources and strategies to serve our clients even better, becoming an integral part of our client's success in the future.

Thank you to our talented and hardworking team for all that you do!

-Jereme Baker

## Trending Topics

### Buyers: Assess your new home diligently

Have you ever wondered what would happen if a construction team messes up your home or business renovation?

The Construction Defect Action Reform Act (CDARA) was enacted in 2001 – and amended in 2003 - in an effort to bring stability and fairness to the construction industry in Colorado. The act governs how construction defect litigation and arbitration actions are conducted, with the goal of ensuring that all parties are treated fairly and that disputes are resolved efficiently.

#### How does CDARA work?

The act is applicable to both residential and commercial construction projects and to almost everyone involved in the construction process. It also sets forth several procedural requirements for construction defect claims. For instance, under CDARA, any party claiming defects must provide a pre-litigation Notice of Claim Process, or NOC. The purpose of the NOC is to give the construction professional a notice describing the defects, 75 days prior to filing litigation (or 90 days prior to filing litigation in the case of commercial property). After receiving notification, the developer, builder, or general contractor has 60 days to inspect the property and attempt to resolve the issue.

This helps homeowners and developers to work together to resolve issues early on and, in many cases,

#### August Takeaway

When you buy improved real estate, you expect the seller to disclose any and all defects. This is not always the case, however. Sometimes sellers fail to disclose important information about the property, which can lead to serious issues down the road. Can you sue the seller for not disclosing the defects after the sale closes?

In most instances, you can. However, it is important to remember that not all sellers are deliberately trying to withhold information from buyers.



to avoid costly and time-consuming litigation. For the purposes of this act, a defect may be categorized as:

- *Design defect* - flaw in the conception or planning of the project that makes the building unsafe or unfit for its intended purpose.
- *Material defect* - problem with the quality or composition of the materials used in construction.
- *Workmanship defect* - an issue with the actual execution of the construction process.

Also, according to CDARA, damages are capped at "actual damages" unless there is a violation of the Colorado Consumer Protection Act. This means that a party claiming damages related to construction and/or design defects may not recover more than "the lesser of:

1. fair market value of the real property without the alleged construction defect;
2. replacement cost of the real property; or
3. reasonable cost to repair the alleged construction defect, together with "relocation costs."

#### Identifying defects

A family recently discovered mold growing in their attic three years after purchasing their home from a popular builder. The attic lacked adequate ventilation

Sometimes, sellers may not be aware of the problem themselves, so before you decide to sue your home seller, take time to properly assess the situation.

There are a few things that you will need to consider before deciding to sue your home seller for not disclosing defects. First, you will need to determine if the defect is something that would have been considered material information. Material information is defined as anything that would have had a significant impact on your decision to buy the property. For example, if the seller failed to disclose that the roof was in bad shape, this would likely be considered material information. Another thing to consider is whether you would have been able to discover the defect on your own or during the

leading to moisture buildup and consequently the mold problems. After investigating, they were able to prove that the issue was caused by improper construction practices, meaning that the design of the house, based on the relevant climate, location, and use, was not accurately followed during the construction process.

Another common example is that, if you live in an area with heavy rainfalls, you may notice that your home experiences drainage problems during wet weather. This defect may not it may not be covered by your standard homeowner's policy. However, the CDARA may allow you to file a claim against the builder or developer. Similarly, if your home experiences flooding due to faulty construction, the CDARA would allow you to seek compensation from the responsible party.

While CDARA is relatively straightforward, there is an ongoing debate about how to interpret and apply it to specific cases. As a result, construction defect cases can be complex and time-consuming. This often requires the help of an experienced attorney who can help you navigate the process and protect your rights.

If you believe that your home or business property has been affected by substandard construction, don't hesitate to take advantage of the protections afforded by the CDARA.

home inspection. If during a thorough inspection of the property the inspector failed to notice that there was an obvious defect with the property, you may not have a case against the seller, but the inspector may be liable.

If you do decide to sue the seller for not disclosing defects, you will need to prove that the seller knew about a latent defect and deliberately chose not to disclose it. This can be difficult to do, so you may want to consult with an experienced attorney before taking legal action.



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**DISCLAIMER:** The information provided in this newsletter does not, and is not intended to, constitute legal advice; instead, all information, content, and materials are for general informational purposes only. No action should be taken in reliance on the information contained in this newsletter. An attorney should be contacted for advice on specific legal issues. Nothing in this newsletter is an offer to represent you and shall not create an attorney-client relationship.

## COLORADO CORNER

### Things to do around Denver in September



#### **Taste of Colorado**

Civic Center Park

#### **Denver Chalk Art Festival**

Golden Triangle Creative  
District

#### **Art RiNo Festival**

River North Art District

#### **Denver Food & Wine Festival**

Denver Performing Arts  
Complex - Sculpture Park

#### **Westword Music Showcase**

River North Art District

#### **Union Station Farmers Market**

Denver Union Station

### In the know

**Alex Jones to pay \$4.1 million for compensatory damages to the parents of Sandy Hook**

A Texas jury is awarding \$4.1 million in compensatory damages to the parents of Sandy Hook's shooting victim, who filed a defamation lawsuit against conspiracy theorist Alex Jones. The jury could still issue more damages in an upcoming phase of the trial which will determine punitive damages.

Jones is the founder and host of the conspiracy theory website InfoWars, which has promoted false claims that the Sandy Hook shooting was a hoax, even though this week Jones said that he now believed it to be "100% real." In the lawsuit, the parents accused Jones of publishing false statements and claim they had been harassed and threatened by Jones' followers as a result of his lies.

Back in October a judge had ruled that Jones was legally responsible for inflicting emotional distress on the plaintiffs Scarlett Lewis and Neil Heslin, and that Jones was liable for defaming Heslin.

The same day Jones was ordered to pay \$4.1 million in Texas, another hearing was being held in the defamation lawsuit filed in Connecticut by other Sandy Hook families. Connecticut's defamation trial is set to begin September 6.

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