

# DAILY JOURNAL – SETTLEMENT SUBMISSION

EZELL, ET AL. V. REYNEN & BARDIS DEVELOPMENT, LLC, ET AL.

BY: CLAYTON M. ANDERSON, ESQ.

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## Plaintiff Attorneys

Anderson & Kriger, APC  
Clayton M. Anderson, Esq.  
Matthew R. Schoech, Esq.

## Discovery Referee/Judge/Mediator

Discovery Referee: Peter Dekker, Esq.  
Griffiths, Castle, Goyette & Dekker

Judge: Honorable Judge Trena Burger-Plavan  
Sacramento County Superior Court

Mediator: Bruce A. Edwards, Esq.

## Case Information

Case Name: Ezell, et al., v. Reynen & Bardis Development, LLC, et al.  
Willyoung, et al., v. Reynen & Bardis Development, LLC, et al.  
McGuire, et al., v. Reynen & Bardis Development, LLC, et al.  
Blomquist, et al., v. Reynen & Bardis Development, LLC, et al.  
Lynn, et al., v. Reynen & Bardis Development, LLC, et al.  
Hartmann, et al., v. Reynen & Bardis Development, LLC, et al.

Case Type: Construction Defect  
Court: Sacramento County Superior Court  
Filing Date: January 22, 2008

## Result:

The lead Willyoung matter was called for trial after major partial settlements in July 2009 but the last remaining party had filed bankruptcy the night before and trial was delayed. The consolidated matters, consisting of 41 homes, eventually settled for just under \$5 million.

## Issues:

Substantial soils movement issues on 41 homes as well as architectural construction defect issues.

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## Expert Testimony:

Plaintiffs' soils expert contended that four inch slabs were completely inadequate and that the subsequent mat slabs used by the developer entities also failed. Soils experts for the Plaintiffs and Defense argued about the presence of lone formation clay soils in the development and its effect on the single family homes. Developer conducted extensive repairs prior to litigation but did inadequate investigation and the repairs failed.

## Arbitration/Mediation Notes:

Matter was mediated on numerous occasions before Bruce Edwards of JAMS from the fall of 2008 until 2010. Over 100 depositions of soils engineers, owners, persons most knowledgeable, experts, and other percipient witnesses supported the mediation efforts.

## Settlement Conference Notes:

Several mandatory settlement conferences with plaintiff homeowners present were held in the special settlement department of the Sacramento Superior Court.

## Case Facts:

Case Facts: From approximately 2001 through 2006 the developer constructed approximately 250 homes in the Rancho Murieta area which is southeast of the City of Sacramento. Numerous soil movement problems were encountered by the developer starting with the model homes and developer switched from a four inch nominal concrete slab on the lone formation soil to a ten inch post tension slab. All of these slabs failed to one extent or another.

Developer continued to build homes as the slabs were failing. The developer undertook repairs for approximately half of the 250 homes built. The repairs included enhanced drainage, releveling efforts, and putting metal piers through the slabs into the soil.

In the fall of 2007 the developer halted all repairs because of the failing real estate market. At least one owner who had been moved out of their house in preparation for putting in the steel piers was left with no repairs. Subsequent investigation showed that the repair efforts by the developer were also failing the owners.

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## Plaintiff Contentions:

Plaintiffs contended that architectural defects including roofs, windows and plumbing were present in the 41 homes. However based on the various soil movement damages and attempted repairs the plaintiffs divided the 41 homes into groups reflecting the damages and the necessary repairs. Plaintiffs also obtained trial priority based on the advanced stage and physical condition of some of the plaintiff owners. Plaintiffs cost of repair was approximately \$7 million for the 41 homes.

## Defendant Contentions:

Defendants contended that soil damages had occurred to the homes but that conditions were stabilizing. Defendants contended that major drainage improvements would be sufficient to prevent further damages.

## Financial Information:

Award Amount: \$5 million dollars