

STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Jodi A. Wendt, individually, and as trustee for
the next of kin of Jaymi Marie Wendt, a minor,
deceased, and Jake Wendt, individually,

Plaintiffs,

v.

Monarch Homes, Inc.,

Defendant and
Third-Party Plaintiff,

v.

Brook Builders, Inc., and Consolidated
Concrete and Masonry, Inc.,

Third-Party Defendants.

Court File No. 27-CV-07-19572
The Honorable Deborah Hedlund
Wrongful Death

AMENDED COMPLAINT

Plaintiffs Jodi A. Wendt, Trustee for the next of kin of Jaymi Marie Wendt, a minor,
deceased, and Jake S. Wendt, Individually, for their Amended Complaint against Defendant
Monarch Homes, Inc., state and allege as follows:

FACTUAL ALLEGATIONS

1. Plaintiff Jodi A. Wendt resides at 13117 Curry Court, Rogers, Minnesota 55374.
Jodi A. Wendt is decedent Jaymi Marie Wendt's mother and legal guardian.
2. Plaintiff Jake S. Wendt resides at 13117 Curry Court, Rogers, Minnesota 55374.
Jake S. Wendt is decedent Jaymi Marie Wendt's brother.
3. By Order signed September 12, 2007, and filed September 14, 2007, Jodi A.
Wendt was appointed by Hennepin County District Court as the Trustee for the Heirs and Next-
of-Kin of Jaymi Marie Wendt, Decedent.

4. At all times relevant to this cause of action, non-parties Jeff and Beth Heibel (hereinafter “the Heibels”) owned a home located at 23656 Aspen Drive, Rogers, Minnesota 55374 (hereinafter “the Property”). The Heibels lived at the Property and maintained possession and control of the Property.

5. At all relevant times, the decedent, Jaymi Marie Wendt resided with her parents and legal guardians at 23575 Aspen Drive, Rogers, Minnesota 55374.

6. At all relevant times, Defendant Monarch Homes, Inc. was a licensed residential home builder doing business in the state of Minnesota.

7. That Defendant was the general contractor for construction of the Property and as such had the exclusive and non-delegable responsibility to direct and supervise the construction of the Property, including, but not limited to, performing, or selecting all sub-contractors to perform, some or all of the tasks necessary to build the Property including, but not limited to, design, grading, installation of foundation and framing labor.

8. Upon information and belief, Defendant selected and entered into agreements with subcontractors to perform each of the tasks necessary to build the Property including, but not limited to, design, grading, installation of foundation and framing labor, and also retained the right to control all materials used in construction of the Property.

9. That Defendant completed construction of the Property in 1998, at which time the Property was purchased by the Heibels.

10. Upon information and belief, Defendant warranted and represented that all work was completed in a workmanlike manner and in accordance with all city, state and federal codes.

11. Contrary to Defendant’s contractual obligations, representations and warranties, the Property was not constructed in a workmanlike manner or in compliance with applicable building laws, codes, ordinances, regulations, or in accordance with industry standards.

12. On September 16, 2006, Jaymi Marie Wendt (age 10) and her brother Jake (age 19) were asked to take care of the Heibels' two young children at the Property. Severe weather was present in the vicinity of the Property, and all occupants of the house, as is typical in severe weather situations, were in the process of retreating to the basement.

13. At approximately 9:55 p.m., severe weather conditions resulted in the house at the Property being moved off of its foundation and back several feet, and portions of the house and debris landed on Jaymi Marie Wendt causing her death.

14. Jaymi Marie Wendt is survived by her mother, Jodi A. Wendt, her father, Randy S. Wendt, a brother, Jake S. Wendt, a sister Jessie L. Wendt and a brother, Jordan A. Wendt.

15. The defective and negligent construction practices of Defendant and/or its subcontractors permitted the house to move off of its foundation and onto Jaymi Marie Wendt, which caused her death.

16. Defendant had a duty to design and construct the Property in a good and workmanlike manner in accordance with the standard of care ordinarily employed by builders of residential homes and to otherwise perform all of the work necessary to construct the Property in complete compliance with all building codes, laws, ordinances, and regulations.

17. Defendant had a further duty to properly hire, retain, and supervise qualified, licensed sub-contractors and suppliers capable of providing services in a workmanlike manner consistent with industry standards, specifications, and in conformity with the applicable building codes, laws, ordinances, and regulations.

18. Defendant breached its duty and acted negligently failing to construct the Property in a workmanlike manner, or in a manner that was in compliance with the standard of care ordinarily employed by a licensed contractor in good standing, or in a manner which complied with the applicable building codes, laws, ordinances, and regulations.

19. Defendant further breached its duty by negligently hiring, retaining, and supervising sub-contractors and suppliers in connection with construction of the Property.

20. As a direct result of the negligent construction of the Property, on September 16, 2006, the house at the Property moved off its foundation, landing on Jaymi Marie Wendt, resulting in her death.

21. As a direct and proximate result of Defendant's negligence, the decedent's next of kin, through Jodi A. Wendt, Trustee, have sustained damages in the form of the loss of the aid, comfort, assistance, advice, companionship, and emotional and financial support of decedent Jaymi Marie Wendt, and other damages, in an amount in excess of \$50,000.00.

22. Plaintiffs hereby demand a trial by jury.

CLAIM OF JAKE S. WENDT

Plaintiff Jake S. Wendt, for his Complaint against the Defendant, adopts the factual allegations listed above.

23. That at the time of the incident of September 16, 2006, Plaintiff Jake S. Wendt was in close proximity to the decedent, Jaymi Marie Wendt, and was in the zone of danger at the time the Property was moved off its foundation and collapsed onto himself and the decedent, Jaymi Marie Wendt.

24. That as a direct and proximate cause of Defendant's negligence, Plaintiff Jake S. Wendt was placed in immediate fear for his own life and safety, and witnessed the horror of the death of his sister, Jaymi Marie Wendt, as she suffocated under the debris of the collapsed house.

25. That it was reasonably foreseeable to the Defendant that the Property they constructed would be subjected to storms and inclement weather, and that a person such as the Plaintiff Jake S. Wendt would be present at the Property during such storms.

26. That as a direct and proximate cause of Defendant's negligence and carelessness, the Plaintiff Jake S. Wendt has suffered severe emotional distress with attendant physical manifestations, and has been damaged in an amount in excess of \$50,000.00.

WHEREFORE, Plaintiff Jodi A. Wendt, as Trustee for the heirs of Jaymi Marie Wendt, and Plaintiff Jake S. Wendt, Individually, respectfully request that judgment be entered against Defendant as follows:


1. Awarding each of the named Plaintiffs an amount in excess of \$50,000.00, the exact amount to be established at trial;
2. Awarding Plaintiffs their costs and disbursements and such other and further relief as the Court deems just and equitable.

ACKNOWLEDGMENT

Plaintiffs hereby acknowledge that sanctions may be imposed under the circumstances set forth in Minn. Stat. § 549.211.

BASSFORD REMELE, A Professional Association

Dated: 7/10/08

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