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**SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

ZHONGHUA CHANG and ZHILIN QIN, husband and wife,) No.
)
Plaintiffs,) PLAINTIFFS' COMPLAINT FOR
) DAMAGES AND INJURIES AND
vs.) FOR INJUNCTIVE RELIEF
)
WINDERMERE REAL ESTATE/EAST, INC.,)
a Washington Corporation; and)
STEPHEN C. HENDER, as agent and/or)
employee of WINDERMERE REAL)
ESTATE/ EAST, INC., and JOHN DOES I-V,)
as agents and/or as employees of)
WINDERMERE REAL ESTATE/EAST, INC.;)
)
Defendants.)

COME NOW Plaintiffs and state and allege as follows:

I.

PARTIES & JURISDICTION

1.1 Plaintiffs Zhonghua Chang and Zhilin Qin, husband and wife, are and have been residents of the State of Washington at all times material mentioned herein, and are currently residents of King County of the State of Washington.

PLAINTIFFS' COMPLAINT FOR DAMAGES AND INJURIES AND FOR INJUNCTIVE RELIEF - 1

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1 1.2 Based upon information and belief and at all times material mentioned
2 herein, Defendant Windermere Real Estate/East, Inc., was and is a Washington
3 corporation (hereinafter “Defendant Windermere East”).
4

5 1.3 Based upon information and belief and at all times material mentioned
6 herein, Defendant Windermere East was doing business as “Windermere Real
7 Estate/East” with a place of business in the City of Bellevue, State of Washington.

8 1.4 Based on information and belief and at all times material mentioned herein,
9 Defendant Stephen C. Hender was a resident of the State of Washington and an
10 employee of, and/or an agent of, Defendant Windermere East.
11

12 1.5 Based on information and belief and at all time material mentioned herein,
13 Defendants John Does I – V were employees and/or agents of Defendant Windermere
14 East with supervisory and managerial responsibilities to the relevant real estate agent
15 business of Defendant Windermere East and Defendant Stephen C. Hender.

16 1.6 At all times material hereto, all acts and omissions of Defendant Stephen
17 C. Hender complained of herein were made for the benefit of, and/or under the
18 supervision of, Defendant Windermere East, and as such, Defendant Windermere East
19 is vicariously and legally liable, for any of the tortious acts and conduct of Defendant
20 Stephen C. Hender as alleged herein, under the doctrine of *Respondeat Superior*.
21

22 1.7 At all times material hereto, all acts and omissions of Defendant John Does
23 I – V were each made for the benefit of Defendant Windermere East and/or for the
24 benefit of Defendant Stephen C. Hender, and as such, Defendant Windermere East is
25 vicariously and legally liable, for any of the tortious acts and conduct of Defendants John
26 Does I – V as alleged herein, under the doctrine of *Respondeat Superior*.
27

1 recruited Jean Chase, another Agent of Defendant Windermere East, to assist
2 Defendant Hender in translating from English to Chinese for the benefit of Plaintiff Qin,
3 the NMLS Buyer's forms tendered in Plaintiff Qin's aforesaid purchase offer.
4

5 2.3 On the Eighteenth (18th) day of the Third Month, 2013, Defendant Hender
6 transmitted Plaintiffs' aforesaid purchase offer to Smith Construction, along with
7 Plaintiffs' One Hundred Thousand (\$100,000.00) Dollar earnest money deposit.

8 2.4 On the Nineteenth (19th) day of the Third Month, 2013, Smith Construction
9 made a counter-offer to Plaintiffs. Said Smith Construction's counter-offer was
10 transmitted to Plaintiff Qin through Defendant Hender.
11

12 2.5 The aforesaid 3/19/2013 Smith Construction's counter-offer contained
13 Smith Construction's Addendum SDS-1 with terms that were complicated and difficult to
14 understand and that were adverse to the interests of Plaintiffs.

15 2.6 On the Twentieth (20th) day of the Third Month, 2013, Defendant Hender
16 met with Plaintiff Qin and recommended that Plaintiffs accept Smith Construction's
17 aforesaid counter-offer containing the aforesaid Addendum SDS-1.
18

19 2.7 At the aforesaid meeting on 3/20/2013 with Plaintiff Qin, Defendant Hender
20 again recruited Agent Jean Chase to assist Defendant Hender in translating from English
21 to Chinese, for the benefit of Plaintiff Qin, the terms of the aforesaid 3/19/2013 Smith
22 Construction counter-offer containing the aforesaid Addendum SDS-1.

23 2.8 At the aforesaid meeting on 3/20/2013 with Defendant Hender and in
24 reliance on Defendant Hender's explanation of the terms of the aforesaid 3/19/2013
25 Smith Construction counter-offer, Plaintiff Qin accepted Smith Construction's aforesaid
26 3/19/2013 counter-offer containing the aforesaid Addendum SDS-1.
27

1 2.9 At the aforesaid meeting on 3/20/2013, Defendant Hender's explanation of
2 the terms of the aforesaid 3/19/2013 Smith Construction counter-offer was translated
3 from English to Chinese, for the benefit of Plaintiff Qin, by Agent Jean Chase.
4

5 2.10 In a good faith effort to secure conventional financing for the purchase of
6 the property from Smith Construction, Plaintiff Qin and Plaintiff Zhonghua Chang applied
7 to HSBC for conventional financing.

8 2.11 Having learned that they had become unable to transfer the requisite funds
9 necessary to meet the terms of the requested conventional financing with HSBC,
10 Plaintiffs met with Defendant Hender on April 6, 2013, who counseled and assisted them
11 in signing a standard NMLS Notice Of Termination form. Said Notice Of Termination
12 form gave formal notice to Smith Construction of the Plaintiffs' unavailability of financing
13 and demanded return of the Plaintiffs' aforesaid earnest money deposit.
14

15 2.12 On April 6, 2013, Defendant Hender transmitted to Smith Construction
16 Plaintiffs' signed Notice Of Termination incorporating Plaintiffs' demand for return of
17 Plaintiffs' One Hundred Thousand (\$100,000.00) Dollar earnest money deposit.
18

19 2.13 Thereafter and continuing into the present, Smith Construction has refused
20 to return Plaintiffs' aforesaid earnest money deposit, based on the terms of the aforesaid
21 3/19/2013 Smith Construction SDS-1 Addendum.

22 2.14 Based on the foregoing facts set forth in the foregoing paragraphs 2.1
23 through 2.13, Plaintiffs claim that Defendant Hender owed them, and each of them, a
24 duty to adequately and clearly explain to Plaintiff Qin the legal effects on Plaintiffs' legal
25 right to obtain the return of any tendered earnest money deposit, if Plaintiffs, through
26
27

1 Plaintiff Qin, were to accept the aforesaid 3/19/2013 Smith Construction counter-offer
2 containing the SDS-1 Addendum.

3
4 2.15 Based on the foregoing facts set forth in the foregoing paragraphs 2.1
5 through 2.13 and based on Defendant Hender's duty set forth in paragraph 2.14,
6 Defendant Hender negligently failed to adequately and clearly explain to Plaintiff Qin the
7 legal effects of her 3/20/2013 acceptance of the aforesaid 3/19/2013 Smith Construction
8 counter-offer containing the SDS-1 Addendum.

9
10 2.16 Without Plaintiff Qin's adequate and clear understanding of the legal effects
11 of said acceptance upon Plaintiffs' legal right to return of their aforesaid earnest money,
12 Defendant Hender's aforementioned negligence has caused Plaintiffs the legal forfeiture
13 and irretrievable loss of Plaintiffs' aforesaid One Hundred Thousand (\$100,000.00)
14 Dollar earnest money deposit to Smith Construction.

15
16 2.17 The aforementioned loss of Plaintiffs' aforesaid One Hundred Thousand
17 (\$100,000.00) Dollar earnest money deposit to Smith Construction has also caused
18 Plaintiffs, and each of them, emotional distress and mental anguish, disruption of their
19 family life, and loss of enjoyment of life.

20 **CLAIM FOR NEGLIGENT BREACH OF ATTORNEY DUTY AND FOR**
21 **UNAUTHORIZED PRACTICE OF LAW**

22
23 2.18 Plaintiffs restate their allegations contained in the above paragraphs 2.1
24 through 2.17.

25
26 2.19 Because of the complexity of the terms of the aforesaid 3/19/2013 Smith
27 Construction counter-offer, Defendant Hender's aforesaid counsel to Plaintiff Qin
28 regarding Defendant Hender's interpretation of the aforesaid 3/19/2013 Smith

**PLAINTIFFS' COMPLAINT FOR DAMAGES AND
INJURIES AND FOR INJUNCTIVE RELIEF - 6**

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1 Construction counter-offer constituted the unauthorized practice of law in violation of
2 RCW 2.48.170–190, and as under all applicable State of Washington case law, inclusive
3 of (but not limited to) Cultum v. Heritage House Realtors, 103 Wn.2d 623 (1985).
4

5 2.20 Defendant Hender's aforesaid recommendation to Plaintiff Qin on
6 3/20/2013 to accept the aforesaid 3/19/2013 Smith Construction counter-offer also
7 constituted the unauthorized practice of law in violation of RCW 2.48.170-190, and as
8 under all applicable State of Washington case law, inclusive of (but not limited to) Cultum
9 v. Heritage House Realtors, 103 Wn.2d 623 (1985).
10

11 2.21 By Defendant Hender's aforesaid tortious conduct of practicing law in
12 violation of RCW 2.48.170-190, Defendant Hender breached his attorney duty to advise
13 Plaintiffs against accepting the aforesaid 3/19/2013 Smith Construction counter-offer,
14 failing to give Plaintiffs a clear and certain understanding of the risks of such acceptance.
15

16 2.22 In their unknowing reliance upon Defendant Hender's aforesaid tortious
17 conduct of practicing law in violation of RCW 2.48.170-190 and because of Defendant
18 Hender's failure to give competent legal advice, Plaintiffs accepted on 3/20/2013 the
19 aforesaid 3/19/2013 Smith Construction counter-offer, without understanding the risks of
20 such acceptance to the potential legal forfeiture of Plaintiffs' aforesaid One Hundred
21 Thousand (\$100,000.00) Dollar earnest money deposit.
22

23 2.23 Plaintiffs' aforesaid irretrievable loss and legal forfeiture of Plaintiffs'
24 aforesaid One Hundred Thousand (\$100,000.00) Dollar earnest money deposit was
25 proximately caused by Defendant Hender's aforesaid tortious conduct of practicing law in
26 violation of RCW 2.48.170-190.
27

28 2.24 Plaintiffs restate, and incorporate by reference, Paragraph 2.17.

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2
3 **APPLICABLE TO ALL CLAIMS**

4 2.31 Defendant Windermere East and Defendant Stephen C. Hender are each
5 jointly and severally liable for all of Plaintiffs' damages as proximately caused by the
6 aforesaid tortious conduct of Defendant Stephen C. Hender.

7 2.32 Defendants John Does I-V are each respectively jointly and severally liable
8 for all of Plaintiffs' damages as proximately caused by the aforesaid tortious conduct of
9 Defendant Stephen C. Hender.

10 2.33 Although Plaintiff Zhilin Qin has attempted to limit the causal effects of
11 said tortious conduct of Defendant Hender, said tortious conduct has resulted in Plaintiff
12 Qin's emotional distress, mental distress, loss of enjoyment of life, and inconvenience,
13 all of which prevail and will continue to prevail indefinitely into the future, and all of which
14 entitle Plaintiff Zhilin Qin to recover general damages, all to be proved at the time of trial
15 and all in exact amounts not now precisely known.

16 2.34 It is impossible at this time to fix the full nature, extent, severity and
17 duration of said injuries to Plaintiff Zhilin Qin, but said injuries are alleged to be impairing
18 in nature.

19 2.35 Although Plaintiff Zhonghua Chang has attempted to limit the causal
20 effects of said Defendant Hender's tortious conduct, said tortious conduct has resulted in
21 Plaintiff Chang's emotional distress, mental distress, loss of enjoyment of life and
22 inconvenience, all of which prevail and will continue to prevail indefinitely into the future,
23 and all of which entitle Plaintiff Zhonghua Chang to recover general damages, all to be
24 proved at the time of trial and all in exact amounts not now precisely known.
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1 providers may mail copies of records to the Defendants and/or to their representatives,
2 except by judicial proceeding authorized by the Rules of Civil Procedure.
3

4 **IV.**

5 **PRAYER FOR RELIEF**

6 **PLAINTIFFS PRAY FOR JUDGMENT** against Defendants in an amount that will
7 be proved at trial, and in an amount that will compensate Plaintiffs for all damages
8 sustained, including but not limited to:
9

10 1. Past and future medical expenses, other past and future health care and
11 remedial and supportive expenses.

12 2. Past and future loss of wages and earnings.

13 3. Permanent partial impairment of earnings and earning capacity.

14 4. Past and future physical pain and suffering.

15 5. Past and future emotional distress and mental suffering.

16 6. Past and future loss of enjoyment of life and for reduction of life
17 expectancy.
18

19 7. Past and future loss of marital consortium, of spousal companionship, and
20 of spousal services.

21 8. Past and future special damages.

22 9. Loss of a chance.

23 10. Interest calculated at the maximum amount allowable by law, including any
24 allowable prejudgment interest.
25

26 11. Statutory and reasonable attorney fees, costs, and disbursements.
27

