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USAA CASUALTY INSURANCE COMPANY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

30-2015-00787212-CL-PO-CJC

USAA CASUALTY INSURANCE COMPANY,)	CASE NO.:
)	COMPLAINT FOR SUBROGATION:
Plaintiff,)	
v.)	1. NEGLIGENCE
NU FLOW AMERICA, INC., and DOES 1 to 30,)	(Limited Jurisdiction \$18,138.19)
Defendants.)	

Plaintiff, USAA CASUALTY INSURANCE COMPANY, alleges against defendants, and each of them, as follows:

PARTIES

1. USAA CASUALTY INSURANCE COMPANY ("USAA") is now and was a corporation authorized and doing business in the State of California.
2. USAA is informed and believes and thereon alleges that defendant, NU FLOW AMERICA, INC (NU FLOW), is now and was a corporation authorized and doing business in the State of California.
3. The true names of the defendants identified herein as DOES 1 through 30, inclusive, are unknown to plaintiff. Pursuant to C.C.P. §474, USAA will seek of court to amend this complaint

1 to allege the names of such individuals and entities as soon as they are ascertained.

2 4. Plaintiff is informed and believes and thereon alleges that each of the defendants was the
3 agent, joint venturer and/or employee of each of the other defendants, and in doing the things
4 hereinafter alleged was acting within the course and scope of said agency, employment and/or joint
5 venture with the advanced knowledge, acquiescence or subsequent ratification of each and every
6 remaining defendant.

7 **COMMON ALLEGATIONS**

8 5. Plaintiff is informed and believes and thereon alleges that on or prior to May 14, 2012,
9 Niguel Villa Condominium Association and/or Millennium Community Management hired NU
10 FLO and DOES 1 to 30 to perform certain plumbing work including but not limited to soldering
11 water lines at the condominium building located at 31222 W. Nine Dr., Laguna Niguel, CA.

12 6. Plaintiff is informed and believes and thereon alleges that on or about May 14, 2012, a
13 fire loss occurred at the condominium building which caused damages to the unit and contents
14 owned and occupied by plaintiff's insured, Brian Young.

15 7. USAA insured Young against losses such as those which he sustained in the fire loss
16 pursuant to a policy of homeowners insurance. To date, USAA has paid Young \$18,138.19 under
17 the terms of this policy as reimbursement for the reasonable value of the damage and/or destruction
18 of Young's property and additional living expenses.

19 8. As a result of the fire loss, Young suffered losses for which defendants, and each of them,
20 are liable. Young has existing and viable claims against the defendants which may be asserted to
21 the extent that he has not already been compensated for those losses.

22 9. In compensating Young for the losses which he suffered in the water loss, USAA
23 was not acting as a volunteer, but as a party to a contract of insurance, legally bound by its
24 obligations thereunder to compensate its insured for the reasonable value of his losses.

25 10. The acts of the defendants, and each of them, have damaged USAA in that USAA has
26 been obligated to compensate Young for the losses which he suffered as a result of the
27 defendants' conduct, in an amount not less than \$18,138.19.

28 11. The interests of justice require that the losses sustained by USAA should be shifted

1 entirely from USAA to the defendants whose conduct was responsible for the losses sustained by
2 Young, which defendants are in an equitable position inferior to USAA. USAA thus stands in
3 the shoes of Young and brings this action as equitable subrogee of Young's claims. The policy of
4 insurance issued by USAA to Young specifically grants USAA subrogation rights.

5 **FIRST CAUSE OF ACTION**

6 **(For Negligence against NU FLO AND DOES 1 through 30)**

7 12. USAA realleges and incorporates by this reference the allegations of paragraphs 1
8 through 11 above as though fully set forth herein

9 13. USAA is informed and believes and thereon alleges that on or about May 14, 2012,
10 NU FIO and DOES 1 through 30, and each of them, serviced, repaired and/or worked on the
11 plumbing lines at the Niguel Villa condominium building.

12 14. USAA is informed and believes and thereon alleges that NU FLO and DOES1 through
13 30, and each of them, actually knew or reasonably should have known that the manner in which
14 they serviced, repaired and/or worked on the plumbing lines at th Niguel Villa condominium
15 building would need to be done properly, reasonably and in a non negligent manner. Further, NU
16 FLO and DOES 1 through 30, and each of them, actually knew or reasonably should have known
17 that the manner in which they serviced, repaired and/or worked on the plumbing lines was
18 improper, unreasonable, and negligent.

19 15. It was reasonably foreseeable that the failure to take such measures would result in the
20 damage or destruction of property, including the real and personal property owned by Young. NU
21 FLO and DOES 1 through 30 thus owed a duty to Young to perform their work in a reasonable and
22 professional manner to prevent a fire.

23 16. USAA is informed and believes and thereon alleges that NU FLO and DOES 1 through 30
24 negligently failed to take all steps reasonably necessary to prevent a fire at the Niguel Villa
25 condominium building.

26 17. USAA is informed and believes and thereon alleges that the fire loss which occurred in the
27 Young residence on May 14, 2012, was caused by the negligence of defendants, and each of them,
28 by the manner in which they serviced, repaired and/or worked on the plumbing lines.

1 18. USAA is informed and believes and thereon alleges that the fire loss would not have
2 occurred at all, or if it did occur, would not have caused damage as extensive as it did, had
3 defendants not been negligent.

4 19. As a direct and proximate cause of defendants' negligence, Young was injured by the fire loss
5 which occurred in his residence, and USAA was injured by virtue of making good on its contractual
6 obligation to reimburse Young the sum of \$18,138.19 for the reasonable value of the losses which
7 he suffered.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, USAA seeks judgment against defendants, and each of them, jointly and
10 severally, as follows:

- 11 1. All actual, consequential and incidental losses resulting from defendants' wrongful
12 conduct in the sum of \$18,138.19 or a sum according to proof;
- 13 2. Prejudgment interest;
- 14 3. Attorney's fees, if allowable by contract, law or statute;
- 15 4. Costs;
- 16 5. And for such other and further relief as the court deems just and proper.

17 Dated: May 8, 2015

LAW OFFICES OF BRIAN J. FERBER

19 By: Brian Ferber
20 Brian J. Ferber, Esq.
21 Jeffrey K. Jayson, Esq.
22 Attorneys for Plaintiff,
23 USAA CASUALTY INSURANCE COMPANY
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