

JEFF W. REISIG (SBN 182205)  
District Attorney of Yolo County  
DAVID J. IREY (SBN 142864)  
Assistant Chief Deputy District Attorney  
Consumer Fraud & Environmental Protection Division  
DAVID GREEN (SBN 287176)  
Deputy District Attorney  
301 Second Street  
Woodland, CA 95695  
Telephone: (530) 666-8428  
Facsimile: (530) 666-8185  
e-mail: david.irey@yolocounty.org

*Attorneys for the People of the State of California*

**FILED**  
**YOLO SUPERIOR COURT**

**JUL 12 2018**

BY N. PLOWMAN  
DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA,	)	Case No. <b>CV-18-1228</b>
	)	
Plaintiff,	)	COMPLAINT FOR INJUNCTIVE
	)	RELIEF, CIVIL PENALTIES, AND
v.	)	OTHER RELIEF
	)	
SEECON FINANCIAL & CONSTRUCTION CO.,	)	
INC., a California corporation; DISCOVERY	)	(Business & Professions Code, § 17200 et
BUILDERS, INC., a California corporation; ALBERT	)	seq.)
D. SEENO CONSTRUCTION CO., INC., a	)	
California corporation; A-S PIPELINES, INC., a	)	
California corporation; and DOES 1-20, inclusive,	)	<i>Exempt from fees per Gov. Code, § 6103</i>
	)	
Defendants.	)	

1. Plaintiff, the People of the State of California, by and through Jeff W. Reisig, District Attorney of Yolo County, hereby allege the following upon information and belief:

**INTRODUCTION**

2. Defendants Seecon Financial & Construction Co., Inc., Albert D. Seenon Construction Co., Inc., Discovery Builders, Inc., and A-S Pipelines, Inc., are the owners and developers of a large residential project in West Sacramento known as Newport Estates. This case concerns Defendants' violation of California laws intended to protect the archaeological resources on Newport Estates, including laws prohibiting the wanton removal of Native American remains and requiring the contacting of the county coroner after encountering human remains.

1           3. Defendants have been developing Newport Estates for nearly two decades, and  
2 throughout this period, have been aware that the lands underlying Newport Estates were suspected to  
3 hold significant archaeological resources. Materials prepared for Newport Estates in 1998 under the  
4 California Environmental Quality Act, for example, informed Defendants that “[t]here are significant  
5 cultural or archaeological sites identified in . . . the project area.” A 1986 survey that covered the  
6 Newport Estates property—which Defendants have had since around 1998—similarly showed large  
7 swaths of Newport Estates to lie within areas suspected to contain archaeological resources. And  
8 Defendants’ early development of Newport Estates confirmed the presence of archaeological  
9 resources on the property, when Defendants found a Native American burial in 2001.

10           4. After discovering the Native American burial in 2001, Defendants engaged an  
11 archaeologist, contacted the Native American tribe most likely affiliated with the burial, and with the  
12 assistance of the archaeologist and a tribal member, removed the remains within the burial for  
13 relocation elsewhere—actions Defendants were required to take under California law before moving  
14 forward with construction.

15           5. But Defendants took a different tact when one of their subcontractors discovered  
16 Native American remains on Newport Estates on October 6, 2015. On the date of discovery,  
17 Defendants did not contact an archaeologist, a tribal member, or the county coroner. Instead,  
18 Defendants instructed their subcontractor not to contact police and “to hide that shit.”

19           6. Worse, as the People later discovered, this was not the first time that Defendants  
20 failed to disclose the uncovering of Native American remains on Newport Estates. After the West  
21 Sacramento Police Department learned of the October 6, 2015 discovery of human remains through a  
22 media outlet and approached Defendants about the discovery, Defendants hired an archaeologist who  
23 confirmed that “scattered remains” also lay elsewhere on Newport Estates. According to the  
24 archaeologist, who was hired after October 6, 2015, “[t]hese bones clearly represented the remains of  
25 an interment that had been impacted and scattered across a relatively widespread area during the  
26 course of previous grading activity.” Defendants, however, had never previously informed the  
27 county coroner, or anyone else, about the uncovering of these human remains. Nor did Defendants,  
28 after uncovering these human remains, immediately cease construction activities on Newport Estates.

7. Defendants' failure to cease construction activities after uncovering human remains, and to otherwise comply with the law, has resulted in the destruction and damage of countless Native American remains on Newport Estates.

8. The People bring this action to enjoin Defendants from disturbing Native American burial grounds in violation of California law, and to seek civil penalties along with other appropriate relief.

## PARTIES

9. Plaintiff is the People of the State of California. The People bring this action by and through Jeff W. Reisig, District Attorney of Yolo County. The authority of the District Attorney of Yolo County to bring this action is derived from statutory language of the State of California, specifically Business and Professions Code section 17200 *et seq.*

10. Defendant Seecon Financial & Construction Co., Inc., is a California corporation based in Concord, California. Seecon Financial & Construction Co., Inc., owned Newport Estates during the relevant time period.

11. Defendant Albert D. Seeno Construction Co., Inc., is a California corporation based in Concord, California. Albert D. Seeno Construction Co., Inc., was the general contractor for Newport Estates during the relevant time period.

12. Defendant Discovery Builders, Inc., is a California corporation based in Concord, California. Discovery Builders, Inc., was the construction manager for Newport Estates during the relevant time period.

13. Defendant A-S Pipelines, Inc., is a California corporation based in Concord, California. A-S Pipelines, Inc., installed wet utilities for Newport Estates during the relevant time period.

14. Does 1 through 20, inclusive, are persons whose names and identifies are unknown to the People at this time, and the People therefore sue these defendants by their fictitious names. The People will seek leave to amend this Complaint to allege the true names of Does 1 through 20 once they have been determined. Does 1 through 20 participated in some or all of the acts alleged herein.

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15. The named and unnamed defendants in this action are collectively referred to as “Defendants.”

16. Allegations in this Complaint of Defendants' acts or omissions include the acts and omissions of Defendants' officers, agents, employees, and representatives that were committed while acting within the course and scope of their employment or agency on behalf of Defendants.

17. All Defendants at all times acted as agents of one another. With regard to the conduct and omissions alleged in this Complaint, each of the Defendants ratified the actions of the other Defendants.

## JURISDICTION AND VENUE

18. This Court has jurisdiction over Defendants because all causes of action asserted in this Complaint arise out of Defendants' conduct in Yolo County, California.

19. Venue is proper in this Court under Code of Civil Procedure section 393 because the causes of action alleged in this Complaint arose out of Defendants' conduct in Yolo County, California.

## GENERAL ALLEGATIONS

## Archaeological resources in and around Newport Estates

20. In or around 1997, Defendants sought the City of West Sacramento's approval of a vesting tentative map for the Newport Estates project, a proposed residential development of over 800 homes covering 269.1 acres of historically agricultural lands in West Sacramento.

21. At this time, the Newport Estates property had already been long suspected to contain archaeological resources.

22. In 1986, the Yolo County Community Development Agency conducted a survey of Newport Estates and the surrounding property, and prepared a map that depicted areas suspected to contain archaeological resources. According to the 1986 survey, large portions of what would later become Newport Estates were suspected to contain archaeological resources.

23. The City of West Sacramento’s 1994 draft environmental impact report for the Southport Framework Plan—a plan that covers Newport Estates—also noted that large portions of the Newport Estates lands were suspected to contain archaeological resources.

1           24. Defendants began development of Newport Estates against this backdrop; and  
2 consistent with the 1986 survey and the 1994 draft environmental impact report for the Southport  
3 Framework Plan, the City of West Sacramento's 1998 environmental review for Newport Estates  
4 recognized the potential archaeological significance of the Newport Estates lands.

5           25. On March 2, 1998, the City of West Sacramento issued, pursuant to the California  
6 Environmental Quality Act, a mitigated negative declaration that described the potential  
7 environmental impacts of Newport Estates. The City's mitigated negative declaration, or MND,  
8 explained that "[t]here are significant cultural or archaeological sites identified in the 1990 [City of  
9 West Sacramento] General Plan within the project area." The MND went on to note that "[g]rading  
10 and construction activities could disturb subsurface archaeological resources," and as a condition of  
11 project approval, required Defendants to comply with a mitigation measure intended to protect  
12 archaeological resources. This measure provided that "[i]f any archaeological remains are  
13 encountered during subsurface development or construction, all work within 65 feet of the discovery  
14 shall be stopped until a professional archaeologist can determine the significance of the find and  
15 recommend appropriate mitigation."

16           26. On May 21, 1998, the City of West Sacramento prepared a mitigation monitoring  
17 program to ensure that the mitigation measures included in the MND would be implemented. The  
18 mitigation monitoring program, or MMP, reiterated that "[i]f any archaeological remains are  
19 encountered during subsurface development or construction, all work within 65 feet of the discovery  
20 shall be stopped until a professional archaeologist can determine the significance of the find and  
21 recommend appropriate mitigation."

22           27. By May 21, 1998, Defendants possessed, or were at least familiar with, the  
23 archaeological findings expressed in the 1986 Yolo County Community Development Agency  
24 survey, the 1994 draft environmental report for the Southport Framework Plan, the March 2, 1998  
25 MND for Newport Estates, and the May 21, 1998 MMP for Newport Estates.

26           28. Defendants are obligated to comply with the May 21, 1998 MMP's mitigation  
27 measures.

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**2001 discovery of Native American remains**

29. Defendants began construction for Newport Estates shortly after the City of West Sacramento issued the MND in 1998 and approved the vesting tentative map for Newport Estates.

30. According to the March 2, 1998 MND, Defendants intended to develop Newport Estates in phases, and by 2001, Defendants were developing a portion of Newport Estates known as Unit 1.

31. In or around March of 2001, Defendants discovered a Native American burial in Unit 1.

32. Following the discovery, Defendants engaged an archaeologist, contacted the Native American tribe most likely affiliated with the burial, and with the archaeologist's and a tribal member's assistance, removed the Native American remains.

**2015 discovery of Native American remains**

33. By 2015, Defendants had completed construction for much but not all of Newport Estates, and in or around April of 2015, Defendants began construction for portions of Newport Estates known as Unit 10 and Unit 11.

34. Unit 10 lies about 600 feet north from where Defendants discovered the Native American burial in 2001.

35. Unit 11 generally lies north and east of Unit 10, and covers lands long suspected to contain archaeological resources. According to the 1986 Yolo County Community Development Agency survey, much, and perhaps the majority, of Unit 11 was suspected to contain archaeological resources.

36. Nonetheless, Defendants had not notified any of their subcontractors that archaeological resources might be discovered on Unit 10 or Unit 11, even though the subcontractors would be using earthmoving equipment on these units. Nor had Defendants provided any of their subcontractors copies of the March 2, 1998 MND—which commented that “significant cultural or archaeological sites” had been identified in the project area—or the May 21, 1998 MMP for Newport Estates—which required Defendants to comply with certain mitigation measures in the event that archaeological remains were encountered.

37. On October 6, 2015, around 8 a.m., one of Defendants' subcontractors, American Underground Contractor, Inc., discovered human remains on Unit 10.

38. Shortly after 9 a.m. on October 6, 2015, American Underground Contractor, Inc., notified Defendant Discovery Builders about the human remains, and asked whether they should contact the police. Discovery Builders responded, “No. . . . Need to hide that shit now.” Below is an excerpt of text messages sent between American Underground Contractor, Inc., and Discovery Builders:

Photograph of human remains

**We dug this out should we call the police**

No

Give me 2 minutes

Need to hide that shit now

39. Defendants did not, after initially uncovering remains on Unit 10, immediately cease excavation and development activities in the area where the remains were found.

40. Nor did Defendants, at any time on or before October 6, 2015, notify the West Sacramento Police Department, the Yolo County coroner, an archaeologist, or anyone else that human remains were discovered on Unit 10 or Unit 11 of Newport Estates.

41. The West Sacramento Police Department, however, nonetheless learned about the human remains through a media outlet the evening of October 6, 2015.

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42. The following morning, on October 7, 2015, the West Sacramento Police Department visited Newport Estates to inquire about the discovery of human remains. Defendants, at this time, acknowledged that human remains were found on the property.

43. Defendants subsequently, at the request of City of West Sacramento staff, engaged an archaeologist to inspect other portions of Newport Estates for human remains.

44. During an inspection on or around October 16, 2015, Defendants' archaeologist "found scattered remains" elsewhere on Newport Estates in Unit 11. According to the archaeologist, "[t]hese bones clearly represented the remains of an interment that had been impacted and scattered across a relatively widespread area during the course of previous grading activity."

45. Defendants, after initially uncovering “[t]hese bones” in Unit 11, and before they contacted the county coroner, an archaeologist, or anyone else, continued excavation and development activities in the area where the remains were found.

### FIRST CAUSE OF ACTION

**(Business & Professions Code, § 17200 *et seq.*)**

46. The People restate and incorporate all previous paragraphs.

47. Within four years of the date of commencement of this action, exclusive of any applicable tolling periods, Defendants engaged in unlawful acts, omissions, and practices that constitute unfair competition within the meaning of Business and Professions Code sections 17200 through 17208, including the following:

- a. Knowingly mutilated or disinterred, wantonly disturbed, or willfully removed human remains, in violation of Health and Safety Code section 7050.5.
- b. Failed to contact the county coroner after encountering human remains on Newport Estates and before further excavating or disturbing the site, in violation of Health and Safety Code section 7050.5.
- c. Removed, without authority of law, Native American artifacts or human remains from a Native American grave with malice or wantonness, in violation of Public Resources Code section 5097.99.

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- 1 d. Engaged in development activity in areas where Native American remains were  
2 found without first conferring with the most likely descendant of the Native  
3 American remains, in violation of Public Resources Code section 5097.98.  
4 e. Failed to comply with the terms of the March 2, 1998 MND and the May 21, 1998  
5 MMP for Newport Estates; specifically, those portions of the MND and MMP  
6 concerning the steps to take when archaeological remains are encountered.

7 48. Each and every separate act constitutes an unlawful or unfair business practice. Each  
8 day that Defendants engaged in each separate unlawful act, omission, or practice is a separate and  
9 distinct violation of Business and Professions Code section 17200.

10 49. Based on the above, the People request injunctive relief against Defendants under  
11 Business and Professions Code section 17203, and civil penalties against Defendants under Business  
12 and Professions Code section 17206, as set forth in the People's prayer for relief.

13 **PRAYER**

14 WHEREFORE, the People respectfully request the following relief:

15 1. That Defendants and their successors, agents, representatives, employees, and assigns  
16 be permanently enjoined from engaging in unfair competition as defined in Business and Professions  
17 Code section 17200, including, but not limited to, acts alleged in this Complaint, under the authority  
18 Business and Professions Code section 17203;

19 2. That Defendants and their successors, agents, representatives, employees, and assigns  
20 be ordered to reinter excavated Native American remains consistent with the wishes of the Native  
21 American tribe most likely affiliated with the remains.

22 3. That the Court assess a civil penalty of TWO THOUSAND FIVE HUNDRED  
23 DOLLARS (\$2,500) against Defendants for each violation of Business and Professions Code section  
24 17200, in an amount according to proof, but not less than FIVE HUNDRED THOUSAND  
25 DOLLARS (\$500,000), under the authority of Business and Professions Code section 17206;

26 4. That the People recover their costs of suit, including costs of investigation;

27 5. That the People receive all other relief to which they are legally entitled; and

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1           6.       That the Court award such other relief that it deems just, proper, and equitable.

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3       Dated: July 9<sup>th</sup>, 2018

Respectfully submitted,

4           JEFF W. REISIG  
5           DISTRICT ATTORNEY

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7           By: DAVID J. IREY  
8           Assistant Chief Deputy District Attorney