

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

**THE CARTER-JONES LUMBER  
COMPANY dba KIGHT HOME CENTER**

**and**

**CARTER LUMBER OF THE SOUTH,  
INC. dba KIGHT HOME CENTER;**

**Plaintiffs,**

**v.**

**LAYTON HOMES 2, LLC;**

**and**

**BRIAN LAYTON**

**Defendants.**

**Case No.** \_\_\_\_\_

**JURY DEMAND (12)**

**COMPLAINT**

COME NOW, Plaintiffs The Carter-Jones Lumber Company and Carter Lumber of the South, Inc. (collectively, "Carter"), by and through the undersigned counsel, and in support of this Complaint, state the following:

1. The Carter-Jones Lumber Co. is an Ohio corporation with its principal place of business in Kent, Ohio, while Carter Lumber of the South, Inc. is a South Carolina corporation registered as a foreign corporation in Ohio, with its corporate headquarters in Kent, Ohio. Both Carter entities are duly registered as a foreign for-profit corporations with the State of Tennessee and do business in Tennessee as "Kight Home Center."

2. Defendant Layton Homes 2, LLC ("Layton Homes") is a Tennessee limited liability company with its principal address at 618 Hamilton Ave, Nashville, Davidson County, Tennessee

37203. Layton Homes can be served through its registered agent for service of process – Brian Layton, 618 Hamilton Ave, Nashville, Davidson County, Tennessee 37203.

3. On information and belief, Defendant Brian Layton (“Layton”) resides and can be served at 2126 Sharondale Dr, Nashville, Davidson County, Tennessee 37215.

#### **FACTS COMMON TO ALL CLAIMS**

4. Carter is in the business of selling and supplying construction materials and labor. Carter maintains and operate retail locations in Middle Tennessee including the “Kight Home Center,” located at 444 Dick Buchanan St, Nashville, Tennessee 37086.

5. For those customers that qualify, Carter sells construction materials and/or labor on credit, subject to certain terms and conditions. On August 8, 2018, Defendants applied for a credit account with Carter by submitting a completed Yard Account Application, which was subject to the stated Terms and Conditions (“Account Contract”). The Account Contract is attached as Exhibit A.

6. As part of the Account Contract, Layton agreed to personally guarantee Layton Homes’ credit account with Carter.

7. Carter approved Defendants for credit and from August of 2018 through June of 2019, Defendants used the account to purchase construction materials and/or labor from Carter on credit (“Account Purchase History”). The Account Purchase History is attached as Exhibit B.

8. On or about June 25, 2019, Carter Lumber of the South, Inc. and Layton entered into a Subcontractor / Trade Partner Agreement (“TPA”). The TPA is attached as Exhibit C.

9. Defendants continued purchasing, and Carter continued furnishing, construction materials and/or labor on credit under the Account Contract and TPA until December of 2021, when Defendants defaulted on the Account Contract and TPA by failing to pay Carter.

**COUNT ONE  
BREACH OF CONTRACT  
(LAYTON HOMES)**

10. Carter performed under the Account Contract and TPA by providing construction materials and/or labor as directed by Layton Homes.

11. Layton Homes failed to make payments to Carter as required by the Account Contract and/or TPA and is therefore in breach of its obligations thereunder.

12. The Account Contract's permits Carter to recover interest of 1.5% per month (18% per annum) and attorney fees expended to collect the account balance.

13. As a direct and proximate result of Layton Homes' breach of the Account Contract and TPA, Carter has been damaged in the amount of \$805,094.84, plus interest at the contractual rate of 18% per annum from December 27, 2021, court costs, and attorney's fees.

**COUNT TWO  
ACCOUNT  
(LAYTON HOMES)**

14. Pursuant to the Account Contract, Layton Homes maintained an account with Carter which it used to purchase construction materials and/or labor on credit.

15. The unpaid balance on the account at the time of filing of this Complaint is \$805,094.84,, as evidenced by the Account Purchase History.

16. Carter has made due demand upon Layton Homes for payment, but it refuses to pay the amount due and owing.

17. Layton Homes owes Carter the sum of \$805,094.84, plus interest at the contractual rate of 18% per annum from December 27, 2021, court costs, and attorneys' fees.

**COUNT THREE  
BREACH OF PERSONAL GUARANTEE  
(LAYTON)**

18. As part of the Account Contract, Layton executed a personal guarantee respecting Layton Homes' credit account with Carter.

19. When Layton Homes defaulted on its account with Carter, Layton became personally liable for the amounts Layton Homes owed but would not, could not, or did not pay to Carter.

20. Layton failed to make payments to Carter as required by the Account Contract and is therefore in breach of his obligations thereunder.

21. As a direct and proximate result of Layton's breach of his personal guarantee, Carter has been damaged in the amount of \$805,094.84, plus interest at the contractual rate of 18% per annum from December 27, 2021, court costs, and attorney's fees.

**COUNT FOUR  
UNJUST ENRICHMENT  
(DEFENDANTS)**

22. Carter provided Defendants with construction materials and/or labor, at their request, from which they have derived a benefit.

23. Carter did not provide the materials and/or labor gratuitously and expected to be paid for them.

24. Defendants knew that Carter expected to be paid for the materials and/or labor and, with that knowledge, voluntarily accepted them.

25. The acceptance and use of Carter's materials and/or labor created an implied contract that Defendants would pay Carter the reasonable value thereof.

26. In the event that Defendants are not required to pay to Carter the reasonable value of the construction materials and/or labor, they will have been unjustly enriched. Therefore, Carter

is entitled to recover not less than of \$805,094.84 from Defendants, jointly and severally, plus interest and court costs.

**WHEREFORE**, Carter prays for judgment against Defendants as follows:

1. As to Counts One and Two, that the Court grant relief and damages in favor of Carter and against Layton Homes in the amount of \$805,094.84, plus interest at the contractual rate of 18% per annum from December 27, 2021, court costs, and attorney's fees.
2. As to Count Three, that the Court grant relief and damages in favor of Carter against Layton in the amount of \$805,094.84, plus interest at the contractual rate of 18% per annum from December 27, 2021, court costs, and attorneys' fees.
3. As to Count Four, that the Court grant relief and damages in favor of Carter against Defendants, jointly and severally, for the sum of \$805,094.84, plus interest and the costs of this action;
4. A jury of twelve (12) to try this cause;
5. That the Court grant any and all further relief as it may deem just and proper.

**BARHAM & MAUCERE LLC**

/s/ Daniel O. Barham

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