

CASE NUMBER: 23CV412310

# James Martinez et al vs David Lawver et al

Docket prepared for:

**FILING LOCATION**

Superior

**LAST REFRESHED**

March 28th, 2023

**CATEGORY**

Breach of Contract/Warranty Unlimited(06)

**FILING DATE**

Feb. 22nd, 2023

**PRACTICE AREA**

Commercial

**MATTER TYPE**

Breach of Contract

# James Martinez et al vs David Lawver et al

This Case Was Updated 11 Months Ago

On February 22, 2023 a breach of contract/warranty unlimited(06) case was filed by [James Martinez](#), and [Kimberly Tucker-Brown](#), against [David Lawver](#), [Evans 18, Llc](#), [Larkin, Llc](#), and [Palladium Development, Llc](#), in the jurisdiction of Santa Clara County.

## Case Details

### CASE NUMBER

23CV412310

### FILING DATE

February 22, 2023

### LAST REFRESHED

September 05, 2023

### FILING LOCATION

Santa Clara County, CA

### FILING COURT HOUSE

Superior

### CATEGORY

Breach of Contract/Warranty Unlimited(06)

### PRACTICE AREA

Commercial

### MATTER TYPE

Breach of Contract

### CASE LAST UPDATE

**11 Months Ago**

## Overview

Brown (hereinafter collectively "Plaintiffs").

### PARTIES

Plaintiff James Martinez ("Martinez") is, and at all times herein mentioned was, an individual, residing in San Jose, California.

Plaintiff Kimberly Tucker-Brown ("Brown") is, and at all times herein mentioned was, an individual, residing in Santa Clara, California.

4, Defendant Evans 18, LLC (hereinafter "Evans 18") is a Nevada limited liability company that is registered to do business in California as a foreign limited liability company, Plaintiffs are informed and believe, and thereon allege, Evans 18° principal place of doing business is located in Campbell, Santa Clara County, California.

Defendant Larkin LLC (hereinafter "Larkin") is a Wyoming limited liability company that registered to do business in California as a foreign limited liability company, Plaintiffs are informed and believe, and thereon allege, Larkin' principal place of doing business is located in Campbell, Santa Clara County, California.

Defendant Palladium Development, LLC (hereinafter "Palladium Development") is a Delaware limited liability company that registered to do business in California as a foreign limited liability company, Plaintiffs are informed and believe, and thereon allege, Palladium Development's principal place of doing business is located in Campbell, Santa Clara County,

California. Plaintiffs are informed and believe, and thereon alleges Palladium Development is the manager and entity that controls Evans 18 and Larkin.

Defendant David Lawver (hereinafter "Lawver"), is an individual believed to work and reside in Santa Clara County, California. Plaintiffs are informed and believe, and thereon allege Lawver is the person who controls Evans 18. Plaintiffs are also informed and Martinez v. Lawver, et al.

Complaint — Page 2 believe, and thereon allege Lawver is the manager and person who controls Palladium Development.

Plaintiffs are informed and believe, and thereon allege, that, at all times relevant hereto, Defendants, and each of them, were agents, servants, joint venturers, partners, employees and/or co-conspirators of the other Defendants named herein and that, at all times relevant hereto, each of the Defendants was acting within the course and scope of said relationship with said Defendants.

Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as Does 1 through 20, inclusive, and therefore sue these Defendants by their fictitious names.

Plaintiffs are informed and believe, and thereon alleges, that each of the fictitious named Defendants, Does 1 through 20, is responsible for the acts and omissions alleged herein, and/or otherwise liable to Plaintiffs for payment of damages as alleged in this Statement. Plaintiffs will amend this Statement to allege their true names and capacities when ascertained.

#### Jurisdiction

Plaintiffs incorporate the allegations of Paragraphs 1 through 9, infra, into this Paragraph as if fully set forth herein.

This Court has jurisdiction over corporate Defendants because they were registered to do business in California and their principal places of doing business in this State. Specifically, Defendants have purposefully availed themselves of the marketplace in California by entering into business agreements governing activities in this State in Santa Clara County. This Court has jurisdiction over individual Defendants Lawver because they are residents living or they have engaged business giving rise to this Complaint in Santa Clara County, California.

#### VENUE

Plaintiffs incorporate the allegations of Paragraphs 1 through 12, infra, into this Paragraph as if fully set forth herein.

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Complaint — Page 3 14. Venue is proper because the contracts giving rise to the Complaint was entered into in this county, and the Defendants' residence or principal places of doing business are in this county.

#### Alter Ego

Plaintiffs incorporate the allegations of Paragraphs 1 through 14, infra, into this Paragraph as if fully set forth herein.

Plaintiffs are informed and believe and thereon alleges that at all relevant times, Defendants Lawver and Does | through 20 were and are officers, directors, managers and/or shareholders of Defendants Evans 18, Larkin and Palladium Development.

Plaintiffs are informed, believes, and thereon alleges that Lawver dominated and controlled Evans 18, Larkin and Palladium Development including but not limited to the following:

- a) commingled funds and other assets of Evans 18, Larkin and Palladium Development with the funds and other assets of themselves for their own convenience by placing Evans 18, Larkin and Palladium Development's assets in their names and/or the names of other parties in order to evade payments of their obligations owed to Plaintiffs and to assist in evading payment of said obligations;
- b) diverted funds and other assets of Evans 18, Larkin and Palladium Development to other than corporate uses;
- c) concealed and misrepresented the identity of the responsible ownership, management and financial interest of Evans 18, Larkin and Palladium Development;

d) treated the assets of Evans 18, Larkin and Palladium Development as their own;  
e) diverted assets from Evans 18, Larkin and Palladium Development to themselves,  
to the detriment of creditors;

f) caused Evans 18, Larkin and Palladium Development not to have sufficient

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Complaint — Page 4 corporate assets;

g) under-capitalized Evans 18, Larkin and Palladium Development;

h) used Evans 18, Larkin and Palladium Development as a mere shell,  
instrumentality, or conduit for their fraudulent activities;

i) conceived, intended and used Evans 18, Larkin and Palladium Development as a  
device to avoid personal liability and for the purpose of substituting a financially insolvent entity  
in place of themselves, jointly and separately;

jp used the corporate identity of Evans 18, Larkin and Palladium Development  
as concealment or misrepresentation of personal business activities; and

k) disregarded the legal formalities of Evans 18, Larkin and Palladium Development.

Plaintiffs are informed, believe, and thereon allege that Lawver is the alter ego for  
Evans 18, Larkin and Palladium Development.

Plaintiffs are informed, believe, and thereon allege that Lawver is liable for the  
acts of Evans 18, Larkin, and Palladium Development as alleged in this Complaint as their alter  
ego, and that recognition of the privilege of separate corporate existence would promote  
injustice.

### Causes of Action

1. Breach of Contract (PLAINTIFFS AGAINST DEFENDANTS EVANS 18 AND LARKIN)

Complaint — Page 8 SECOND CAUSE OF ACTION

3. Unjust Enrichment

4. Securities Fraud (PLAINTIFFS AGAINST ALL DEFENDANTS)

5. Common Counts (PLAINTIFFS AGAINST ALL DEFENDANTS)

6. FRAUD/MISREPRESENTATION (PLAINTIFFS AGAINST ALL DEFENDANTS)

## Case Complaint Summary

This complaint alleges various claims against the defendants, including breach of contract, breach of covenant of good faith and fair dealing, unjust enrichment, security fraud, common counts, and fraud/misrepresentation. The plaintiffs, James Martinez and Kimberly Tucker-Brown, claim that the defendants engaged in fraudulent activity and misrepresentation in real estate investment schemes. The defendants named in the complaint are David Lawver, Evans 18 LLC, Palladium Development LLC, Larkin LLC, and fictitious defendants referred to as Does 1-20.

The complaint states that the plaintiffs were solicited by Lawver to invest in real estate projects under the names of Evans 18 Investment LLC and Larkin LLC. The plaintiffs entered into agreements and loaned money to these entities for the acquisition and rehabilitation of real property projects. However, the defendants allegedly failed to repay the loans and distribute the promised profits to the plaintiffs.

The complaint further alleges that Lawver, as an individual, controlled and dominated Evans 18, Larkin, and Palladium Development, and that he used these entities as a means to evade payment of obligations and engage in fraudulent activities. The plaintiffs assert that Lawver is the alter ego of these entities and should be held personally liable for their actions.

## Parties

Plaintiffs

James Martinez

Kimberly Tucker-Brown

### Defendants

David Lawver

Evans 18, Llc

Larkin, Llc

Palladium Development, Llc

### Other Parties

Woody Wu (Attorney)

## Case Documents



## Case Events

July 25, 2023	hearing	Conference: Case Management	
February 22, 2023	Docket Event	Complaint (Unlimited) (Fee Applies)	<a href="#">View Document</a>
February 22, 2023	Docket Event	Summons: Issued/Filed Summons	<a href="#">View Document</a>
February 22, 2023	Docket Event	Clerk Rejection Letter CCCS- Item 4 & 5 need to be completed. Please submit Civil Lawsuit Notice CV-5012.	<a href="#">View Document</a>
February 22, 2023	Docket Event	New Filed Case	