

1 355 U.S. 41, 47, 78 S. Ct. 99 (1957)). A claim must be stated clearly enough to provide
2 each defendant fair opportunity to frame a responsive pleading. *McHenry v. Renne*, 84
3 F.3d 1172, 1176 (9th Cir. 1996). “Something labeled a complaint . . . , yet without
4 simplicity, conciseness and clarity as to whom plaintiffs are suing for what wrongs, fails
5 to perform the essential functions of a complaint.” *Id.* at 1180.

6 Plaintiffs’ Second Amended Complaint (Doc. 21) does not include the factual
7 allegations necessary to determine whether any claims are barred by Arizona’s
8 construction defect statute of repose, A.R.S. § 12-552. Because leave to amend should be
9 freely given “when justice so requires,” Fed. R. Civ. P. 15(a)(2), Plaintiffs will be granted
10 leave to file a further amended complaint.

11 IT IS THEREFORE ORDERED that Defendants D.R. Horton, Inc. and
12 Continental Homes, Inc.’s Motion to Dismiss Claims of Plaintiffs Allen, Aroz, Benallie,
13 Carrington, Evans, Field, Oliver, Griego, Orenstein, Parker, Schenk, Sikora, and Smith
14 Pursuant to the Statute of Repose, § 12-552 (Doc. 13) is **granted** to the extent that
15 Plaintiffs’ Second Amended Complaint (Doc. 21) is dismissed pursuant to Fed. R. Civ. P.
16 8(a).

17 IT IS FURTHER ORDERED that Plaintiffs may file an amended complaint by
18 **June 7, 2013**.

19 Dated this 23rd day of May, 2013.

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23 Neil V. Wake
24 United States District Judge
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