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20 Attorneys for Plaintiffs ENRIQUE DEL RIVERO, ANA
21 DEL RIVERO, GREG ESTES, and CHERIE ESTES,
22 on behalf of themselves and all others similarly situated

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **FOR THE COUNTY OF ORANGE**

25 ENRIQUE DEL RIVERO, an individual; ANA
26 DEL RIVERO, an individual; GREG ESTES, an
27 individual; CHERIE ESTES, an individual; on
28 behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

CENTEX HOMES OF CALIFORNIA, LLC., a
Limited Liability Company; CENTEX HOMES
REALTY COMPANY, a Corporation; PULTE
HOME CORPORATION, a Corporation;
MUELLER INDUSTRIES, INC., a Corporation;
and DOES 1-100,

Defendants.

AND RELATED CROSS-CLAIMS.

CASE NO. 30-2013-00649338-CU-CD-CXC

**CLASS ACTION SETTLEMENT AND
RELEASE BETWEEN PLAINTIFFS AND
DEFENDANTS FOR SETTLEMENT
PURPOSES ONLY**

Judge: Hon. Peter Wilson
Dept: CX-101
Complaint Filed: 5/9/13

STIPULATION OF SETTLEMENT AND RELEASE

1
2 Plaintiffs and Class Representatives Enrique Del Rivero, Ana Del Rivero, Greg Estes and Cherie
3 Estes (“Plaintiffs”), Defendants Centex Homes of California, LLC, Centex Homes Realty Company,
4 and Pulte Home Corporation (“Defendants”) collectively hereinafter referred to as the “Parties,” by and
5 through their respective counsel of record, agree to resolve the above-captioned case through this Class
6 Action Settlement and Release Agreement, dated December 13, 2022, which is being entered into by the
7 Parties for settlement purposes only.

I. DEFINITIONS

8
9 **1.1 Action.** “Action” shall mean the above-captioned lawsuit.

10 **1.2 Administrative Costs.** “Administrative Costs” means the costs of administering the
11 settlement by the Class Administrator, including, but not limited to, the costs of mailing the Settlement
12 Class Notice and related documents to Settlement Class Members, and the Class Administrator’s costs in
13 administering the portion of the Settlement Fund to be distributed to Settlement Class Members.

14 **1.3 Agreement.** “Agreement” means this Class Settlement Agreement and Release,
15 including all exhibits hereto.

16 **1.4 Attorney Fee Award.** “Attorney Fee Award” means the amount awarded by the
17 Court to Plaintiffs’ Counsel as attorneys’ fees, costs, expenses, disbursements or other compensation,
18 such amount to be in full and complete satisfaction of Plaintiffs’ Counsel’s claim or request (and any
19 claim or request made by any other attorneys) for payment of attorneys’ fees, costs, disbursements and
20 compensation in the Action.

21 **1.5 Award.** “Award” means the *pro rata* benefit to be paid on behalf of each
22 Settlement Class Member from the “Net Settlement Fund.”

23 **1.6 Class.** “Class” shall mean:

24 *(1) All present owners of residential homes in the Class Area whose copper pipe*
25 *systems have not been replaced with PEX or epoxy coating by prior owners of the homes, or*
26 *(2) prior owners of homes in the Ladera Ranch, California Class Area who replaced their*
27 *copper pipe systems with PEX or epoxy coating, provided that: (a) the homes were*
28 *constructed by Centex Homes of California, LLC, Centex Homes Realty Company, and Pulte*
Home Corporation and substantially completed within ten (10) years of the filing of the
original complaint in this action, (b) the original purchase agreements were signed by the
builder on or after January 1, 2003, and (c) their SB 800 claims were not released.

1 **1.7 Class Administrator.** “Class Administrator” shall mean ILYM Group, Inc.,
2 14751 Plaza Dr., Suite J, Tustin CA 92780. The Class Administrator shall receive and administer the
3 Settlement Funds.

4 **1.8 Class Counsel.** “Class Counsel” shall mean: Bridgford, Gleason & Artinian,
5 Kabateck LLP, and McNicholas & McNicholas.

6 **1.9 Class Home List.** “Class Home List” shall mean the complete list of the
7 addresses of the homes that are covered by this Settlement and is comprised of those 145 homes
8 developed by Defendants in Ladera Ranch, California identified on Exhibit A hereto.

9 **1.10 Class Representatives.** “Class Representatives” means named plaintiffs and duly
10 appointed class representatives Enrique Del Rivero, Ana Del Rivero, Greg Estes and Cherie Estes.

11 **1.11 Court.** “Court” means the Superior Court of California for the County of Orange,
12 Complex Division.

13 **1.12 Cross-Defendants.** "Cross-Defendants" means Orange Pacific Plumbing, Inc.;
14 Ace American Insurance Company and Arch Specialty Insurance, Intervenor for RCR Plumbing; TIG
15 Insurance Company, successor by merger to American Safety Indemnity Company, as insurer of and
16 Intervenor for Viking Plumbing, Inc., a suspended corporation; Nacobre USA, LLC, formerly known as
17 Copper & Brass International Corp.; Cambridge-Lee Industries, LLC.; and Cerro Flow Products, LLC.

18 **1.13 Defendants.** “Defendants” means Centex Homes, a Nevada general partnership,
19 and Pulte Home Corporation.

20 **1.14 Defendants’ Counsel.** “Defendants’ Counsel” means Joseph A. Ferrentino and
21 Jeffrey R. Brower of Newmeyer & Dillion LLP and Anna S. McLean of Sheppard Mullin Richter &
22 Hampton LLP.

23 **1.15 Eligible Share.** “Eligible Share” shall mean each individual Settlement Class
24 Member’s share of the Net Settlement Fund, which will be determined by dividing the Net Settlement
25 Fund by the 145 homes included in the Settlement Class.

26 **1.16 Final Approval Hearing.** “Final Approval Hearing” shall mean the hearing
27 conducted by the Court to determine the fairness, adequacy and reasonableness of this Agreement and
28 the settlement of the Action, including Plaintiff’s Counsel’s application for the Attorney Fee Award and

1 the Representative Plaintiff's Award, and to enter the Final Approval Order and Judgment.

2 **1.17 Final Approval Order and Judgment.** "Final Approval Order and Judgment"
3 shall mean the Court's Order pursuant to Rule of Court 3.769 granting final approval of this Settlement
4 Agreement and providing for the orderly performance and enforcement of the terms and conditions of
5 this Settlement Agreement, as well as the Judgment rendered by the Court pursuant to Rule of Court
6 3.769(h).

7 **1.18 Motion for Preliminary Approval.** "Motion for Preliminary Approval" shall
8 mean the Motion for Preliminary Approval of the Settlement to be filed in this Action pursuant to
9 California Rule of Court 3.769(c).

10 **1.19 Net Settlement Fund.** "Net Settlement Fund" means the Settlement Fund
11 (including accrued interest) minus (a) Administrative Fees and Costs, (b) the total attorneys' fees and
12 costs awarded to Settlement Class Counsel by the Court; and (c) any incentive payments awarded to the
13 Class Representatives by the Court.

14 **1.20 Notice Date.** "Notice Date" shall mean the date on which the Class
15 Administrator shall send the Settlement Class Notice to all members of the Settlement Class who are not
16 Original Class Members. The Notice Date shall be no more than ten (10) business days after entry of
17 the Preliminary Approval Order.

18 **1.21 Objection Deadline.** "Objection Deadline" means sixty (60) calendar days from
19 the Settlement Class Notice Date.

20 **1.22 Opt-Out.** "Opt-Out" means a Settlement Class Member who timely submits a
21 properly completed and executed Request for Exclusion.

22 **1.23 Opt-Out Period.** "Opt-Out Period" means the period commencing on the
23 Settlement Class Notice Date and ending sixty (60) calendar days thereafter during which Settlement
24 Class Members may submit a timely Request for Exclusion. The last day of the Opt-Out Period shall be
25 specifically set forth in the Settlement Class Notice.

26 **1.24 Original Class Members.** All members of the Class to whom Class Notice was
27 sent on or about February 2018.

28 **1.25 Participating Settlement Class Member.** "Participating Settlement Class

1 Member” shall mean the Settlement Class Member who is the current owner(s) of each home on the
2 Class Home List, unless (a) a prior owner re-piped the home with PEX or an epoxy coating and submits
3 a Prior Owner Re-Piping Form as provided in Section 4.4 of this Settlement Agreement; or (b) the
4 Settlement Class Member Opted Out.

5 **1.26 Parties.** “Parties” shall mean the Class Representatives, the Settlement Class
6 Members, and Defendants.

7 **1.27 Plaintiffs.** “Plaintiffs” shall mean the Class Representatives and the Settlement
8 Class Members.

9 **1.28 Plaintiffs’ Released Parties.** “Plaintiffs’ Released Parties” shall mean
10 Defendants, Cross-Defendants, and each and all of their past, present, and future parents, subsidiaries,
11 subcontractors, affiliated companies and corporations, and each and all of their respective past, present,
12 and future directors, officers, managers, employees, general partners, limited partners, principals, agents,
13 insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors,
14 divisions, joint ventures, assigns, or related entities, and each and all of their respective executors,
15 successors, assigns, and legal representatives, and any subcontractors hired by Defendants to construct
16 or work on the homes listed on the Class Home List and each and all of their past, present, and future
17 parents, subsidiaries, subcontractors, affiliated companies and corporations, and each and all of their
18 respective past, present, and future directors, officers, managers, employees, general partners, limited
19 partners, principals, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives,
20 predecessors, successors, divisions, joint ventures, assigns, or related entities, and each and all of their
21 respective executors, successors, assigns, and legal representatives, as well as any supplier,
22 manufacturer or distributor of copper pipe for potable water systems in the Settlement Class Members’
23 homes and each and all of their past, present, and future parents, subsidiaries, subcontractors, affiliated
24 companies and corporations, and each and all of their respective past, present, and future directors,
25 officers, managers, employees, general partners, limited partners, principals, agents, insurers, reinsurers,
26 shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint ventures,
27 assigns, or related entities, and each and all of their respective executors, successors, assigns, and legal
28 representatives.

1 **1.29 Preliminary Approval.** “Preliminary Approval” shall mean that the Court has
2 entered the Preliminary Approval Order.

3 **1.30 Preliminary Approval Date.** “Preliminary Approval Date” means the date on
4 which the Preliminary Approval Order is entered by the Court.

5 **1.31 Preliminary Approval Order.** “Preliminary Approval Order” shall mean the
6 order entered by the Court that grants Preliminary Approval of this Settlement including, among other
7 things, preliminary approval of the terms of the settlement, provisional certification of the Settlement
8 Class, and approval of the form and method of Settlement Class Notice. The Preliminary Approval
9 Order shall be in substantially the form attached hereto as Exhibit D, subject to non-material
10 modifications made by the Court.

11 **1.32 Release by Class Representatives.** “Release by Class Representatives” means
12 the release set forth in Paragraph 5.1 of this Agreement.

13 **1.33 Release by Settlement Class Members.** “Release by Settlement Class
14 Members” means the release set forth in Paragraph 5.2 of this Agreement.

15 **1.34 Related Actions.** "Related Actions" means *Shah, et. al. v. Pulte Home*
16 *Corporation*, Orange County Superior Court Case No. 30-2014-00731604; *Smith v. Pulte Home*
17 *Corporation*, Orange County Superior Court Case No. 30-2015-0080812; the claims pending with the
18 American Arbitration Association filed by the owners of the homes that were the subject of the Court's
19 July 9, 2021 order granting Defendants' motion to compel arbitration in this action; and the claims
20 pending with the American Arbitration Association filed by the owners of the homes that were the
21 subject of the Court's November 15, 2021 order requiring certain homeowners to arbitration in the *Smith*
22 *v. Pulte Home Corporation* action.

23 **1.35 Representative Plaintiffs' Award.** “Representative Plaintiffs' Award” means
24 the amount, if any, that is approved by the Court for payment to the Class Representatives for acting as
25 class representatives in the Action.

26 **1.36 Request for Exclusion.** “Request for Exclusion” means the submission by
27 Settlement Class Members to the Class Administrator requesting to opt out of the settlement. A form
28 Request for Exclusion is Exhibit E.

1 **1.37 Settled Claims of the Class Representatives.** “Settled Claims of the Class
2 Representatives” means collectively any and all claims, demands, rights, liabilities, suits, matters,
3 obligations, damages, losses, costs, actions and causes of action of every nature and description
4 whatsoever, in law or equity, known or unknown, that the Class Representatives ever had against
5 Defendants, Cross-Defendants, as well as any other supplier, manufacturer, distributor, or installer of
6 copper plumbing lines or systems in the Class Representatives’ homes and their insurers, including
7 claims for penalties, attorneys’ fees and costs of such, that arise from the design, installation, repair, or
8 use of copper plumbing lines and systems in the homes and any alleged violations of California Civil
9 Code § 895 et seq. arising from the design, installation, repair, or use of copper plumbing lines and
10 systems. The Settled Claims of the Class Representatives specifically extend to claims that the Class
11 Representatives do not know or suspect to exist in their favor at the time of settlement. The foregoing
12 releases constitute a waiver of, without limitation, section 1542 of the California Civil Code, which
13 provides:

14 A general release does not extend to claims that the creditor or releasing party does not
15 know or suspect to exist in his or her favor at the time of executing the release and that, if
16 known by him or her, would have materially affected his or her settlement with the
17 debtor or released party.

18 The Class Representatives understand and acknowledge the significance of these waivers of Civil Code
19 section 1542 and/or of any other applicable law relating to limitations on releases. In connection with
20 such waivers and relinquishments, the Class Representatives acknowledge that they are aware that they
21 may hereafter discover facts in addition to, or different from, those facts they now know or believe to be
22 true with respect to the subject matter of the settlement, but that it is their intention to release finally,
23 fully, and forever, all Settled Claims of the Class Representatives, and in furtherance of such intention,
24 the release of the Settled Claims of the Class Representatives will be and remain in effect
25 notwithstanding the discovery or existence of any such additional or different facts.

26 **1.38 Settled Class Claims.** “Settled Class Claims” means collectively any and all
27 claims, demands, rights, liabilities, suits, matters, obligations, damages, losses, costs, actions and causes
28 of action of every nature and description whatsoever, in law or equity, known or unknown, that the

1 Settlement Class Members ever had against Defendants, Cross-Defendants, or any other supplier,
2 manufacturer, distributor, or installer of copper plumbing lines or systems in the Settlement Class
3 Members' homes and their insurers, including claims for penalties, attorneys' fees and costs of such, that
4 arise from or in any way relate to the design, installation, repair, or use of copper plumbing lines and
5 systems in the homes and any alleged violations of California Civil Code § 895 et seq. arising from or in
6 any way relating to the design, installation, repair, or use of copper plumbing lines and systems.

7 Without limiting the foregoing, and for clarification, excluded from the Settled Class Claims are
8 any *other* alleged construction defects or *other* claims relating to the construction of the homes identified
9 in Exhibit A, against any parties, including Defendants, which are not alleged in the Action.

10 **1.39 Settlement or Settlement Agreement.** "Settlement" or "Settlement Agreement"
11 shall mean the terms and conditions of this Class Action Settlement and Release Agreement, which is
12 being entered into by the Parties for settlement purposes only.

13 **1.40 Settlement Class Members.** "Settlement Class Members" shall mean (1) the
14 Original Class Members, and (2) either the present homeowner(s) of the 145 homes listed on Exhibit A,
15 or the former owners of such homes who have provided information acceptable to the Parties that they
16 repiped the home with PEX or an epoxy coating before selling. Settlement Class Members shall exclude
17 Opt-Outs. The Settlement Class Members comprise the "Settlement Class."

18 **1.41 Settlement Class Notices.** "Settlement Class Notices" means the notices of
19 provisional certification of a Settlement Class and proposed settlement contemplated by this Agreement,
20 substantially in the forms attached hereto collectively as Exhibit B and Exhibit C, more fully described
21 in Section IV of this Agreement..

22 **1.42 Settlement Fund.** "Settlement Fund" shall mean the total amount of
23 \$1,371,348.00 that shall be funded by Defendants and wired to Class Administrator's account within 30
24 days of Final Approval. The Settlement Fund shall be the exclusive source for: (a) the benefits to the
25 Settlement Class Members (*i.e.*, the Award); (b) the Attorney Fee Award; (c) Class Administrator's
26 Costs; and (d) the Class Representatives' Awards.

27 **1.43 Settlement Effective Date.** "Settlement Effective Date" shall mean the first day
28 following the last of the following occurrences:

1 (a) The time to appeal or seek permission to appeal or seek other judicial
2 review of the Final Approval Order and Judgment has expired with no appeal or other judicial review
3 having been taken or sought in this Action and all of the Related Actions; or

4 (b) If an appeal or other judicial review of the Final Approval Order and
5 Judgment has been taken or sought in this Action and all of the Related Actions, the date the Final
6 Approval Order and Judgment in this Action and all of the Related Actions is finally affirmed by an
7 appellate court with no possibility of subsequent appeal or other judicial review therefrom, or the date
8 the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent
9 appeal or other judicial review in this Action and all of the Related Actions.

10 II. RECITALS

11 **2.1 Description of the Action.** Plaintiffs filed this Action on May 9, 2013 on behalf
12 of themselves and other allegedly similarly situated persons whose homes were built by Defendants and
13 contained copper plumbing lines and systems that purportedly were inadequate and defective for the
14 water conditions in Ladera Ranch, California.

15 **2.1.0 Litigation of the Action.** Class Counsel assert that they have, for close to
16 nine years, vigorously litigated this Action and the other related actions against other developers for the
17 same claim that the chemical interaction between the water supplied in Ladera Ranch and the copper
18 pipes installed by developers lessened the reasonably-expected useful life of the copper pipes and
19 resulted or would result in pinhole leaks. This has included extensive motion practice on the issue of
20 whether the cases can proceed as class actions (which were litigated on two separate occasions before
21 the Court of Appeal) and extensive work with a common water chemist expert.

22 **2.1.1 Discovery in the Action.** The Parties have engaged in extensive
23 discovery and motion practice in connection with this action.

24 **2.2 Class Certification.** On August 7, 2017, the Court certified the Class as defined
25 in Section 1.6 of this Settlement Agreement.

26 **2.3 Settlement Efforts.** Subsequent to certification of this class action and extensive
27 litigation of this case, the Parties have engaged in arms-length negotiations before Hon. Stephen J.
28 Sundvold (ret.) JAMS ADR. As a result of this mediation, the parties were able to reach agreement on

1 settlement. The terms of that negotiated settlement are reflected in this Agreement.

2 **2.4 Plaintiffs' Reasons for Entering Into Settlement.** Class Counsel and Plaintiffs
3 believe that the claims asserted in this Action have merit. Class Counsel and Plaintiffs, however,
4 recognize the uncertain outcome and the risk of any litigation, especially in complex actions such as this,
5 as well as the difficulties and delays inherent in such litigation. Class Counsel and Plaintiffs are also
6 mindful of the inherent problems of proof and defenses to the claims asserted in this Action. In light of
7 the above, Class Counsel and Plaintiffs believe that the Settlement set forth in this Settlement
8 Agreement confers substantial benefits upon the Settlement Class and each of the Class Members and is
9 fair, just, equitable, reasonable, adequate and in the best interests of all Settlement Class Members.

10 **2.5 Defendants' Reasons for Entering into Settlement.** Defendants have denied,
11 and continue to deny, liability for any of the claims asserted in this Action. Defendants, however, desire
12 to settle the Action, on the terms and conditions set forth in this Settlement Agreement, in order to:
13 (a) avoid the burden, expense, and uncertainty of continuing the Action; (b) avoid the diversion of their
14 resources and personnel required by continuing the Action; and (c) put to rest any and all claims that are,
15 or could have been, brought or asserted in this Action, or any similar litigation, in this or any other
16 court's jurisdiction, which are based upon any of the facts, circumstances or conduct alleged in the
17 Action. Defendants have therefore determined that it is desirable and beneficial that the Action be
18 settled upon the terms and conditions set forth in this Settlement Agreement. This Settlement
19 Agreement is based on the express understanding that nothing contained in this Settlement Agreement
20 shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the
21 part of any of Defendants or any of Plaintiffs' Released Parties, all of whom deny any liability.

22 **2.6 Conditional Settlement.** Subject to Court approval as provided herein, the
23 Parties stipulate and agree that, in consideration of the promises and covenants set forth in this
24 Agreement and upon the entry by the Court of a Final Approval Order and the occurrence of the
25 Effective Date, the Action shall be fully settled and compromised as to the Settlement Class Members
26 upon the terms and conditions set forth below. Further, this Settlement has been entered into in concert
27 with settlements reached in the Related Actions and is conditioned upon final execution and final Court
28 approvals of the settlements in the Related Actions.

1 **NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth in this
2 Agreement, as well as the good and valuable consideration provided for herein, the Parties hereby agree
3 to a full and complete settlement of the Action on the following terms and conditions:

4 **III. TERMS OF SETTLEMENT**

5 **3.1 Contributions to the Settlement Fund.** Defendants and Cross-Defendants shall
6 pay the total sum of \$1,371,348.00 to fund the Settlement Fund. Allocation of the payment of this sum
7 among Defendants and Cross-Defendants is set forth separate settlement agreements between them.
8 Defendants and Cross-Defendants shall be responsible only for their agreed-upon shares of the total
9 Settlement Fund. Any Net Settlement Funds allocated to homes on the Class Home List whose eligible
10 Settlement Class Member Opt-Out of this Settlement shall revert back to Defendants and Cross-
11 Defendants according to their agreements.

12 **3.1.0 Funding of the Settlement Fund.** Within 30 days of the Court's entry of
13 the Final Approval of the Settlement, Defendant shall wire to the Class Administrator's account to be
14 established the amounts listed in Section 3.1 to be used as the Settlement Fund, consistent with the terms
15 of this Settlement Agreement, and shall be maintained in the Class Administrator's account until
16 distributions are made.

17 **3.1.1 Calculation of Net Settlement Fund.** Within five (5) business days of
18 the Settlement Effective Date, the Class Administrator shall calculate the Net Settlement Fund by
19 deducting from the Settlement Fund the anticipated Administrative Costs for the Settlement, attorneys'
20 fees and costs awarded by the Court, any incentive payments awarded to the Class Representatives by
21 the Court, and any other payments agreed to by the Parties and approved by the Court.

22 **3.1.2 Calculation of Eligible Shares to each Class Member.** Within five (5)
23 business days of the Settlement Effective Date, the Class Administrator shall calculate the Eligible Share
24 of the Net Settlement Fund attributable to each Settlement Class Member by dividing the Net Settlement
25 Fund by 145 (*i.e.*, the number of homes on the Class Homes List).

26 **3.1.3 Claims Paid.** This is a claims-paid settlement, and, except for prior
27 owners as provided in Section 4.4 of this Settlement, no Participating Settlement Class Member shall be
28 required to submit any claim form in order be eligible to obtain an Eligible Share. Every Participating

1 Settlement Class Member who does not file a valid Request for Exclusion shall automatically be eligible
2 for to an Eligible Share.

3 **3.1.4 Payment of Claims to the Participating Settlement Class Members.**

4 Within (30) days after the Settlement Effective Date, the Class Administrator shall mail individual
5 Settlement Checks to each Participating Settlement Class Member.

6 **3.1.5 Disposition of Uncashed Settlement Checks.** Each Settlement Check
7 mailed by the Class Administrator to Participating Settlement Class Members shall be valid for 180 days
8 from the date shown on the Settlement Check. Any checks not cashed within that time shall be treated
9 as uncashed checks under California's Unclaimed Property Law and forwarded to the appropriate
10 government authority.

11 **3.1.6 Attorneys' Fees, Costs and Expenses.** Defendants take no position as to
12 the proper amount of any attorneys' fee award to Class Counsel, and agree that they will not oppose an
13 application by Class Counsel for attorneys' fees. Class Counsel represent and warrant that they will not
14 seek an attorneys' fees award of more than one-third of the Settlement Fund, which equates to Four
15 Hundred Fifty-Seven One Hundred Sixteen Dollars (\$457,116.00) and reimbursement of legal costs up
16 to \$75,000.00, and that these amounts are inclusive of all fees, costs, and expenses of Class Counsel,
17 past and future, in connection with the Action. The fees shall be divided among Class Counsel based
18 upon their agreement. The attorneys' fees and costs in the amount awarded by the Court shall be paid
19 directly to Class Counsel from the Settlement Fund within two court days after the Settlement Effective
20 Date. The effectiveness of this Settlement is not conditioned upon nor will it be delayed in the event
21 that the Court fails to approve Class Counsel's request for attorneys' fees and costs in whole or in part.
22 Defendants shall have no obligation to pay any attorneys' fees or costs to Class Counsel other than such
23 amount awarded by the Court to Class Counsel from the Settlement Fund. Any fees not awarded shall
24 be included within the Net Settlement Fund for distribution to the Participating Settlement Class
25 Members. The Class Representatives have reviewed and approved the aforesaid division of attorneys'
26 fees.

27 **3.1.7 Incentive Payments to the Class Representatives.** Plaintiffs intend to
28 apply to the Court for two (2) incentive payments (one for each household of Class Representatives) of

1 \$10,000.00 each (i.e. a total of \$20,000.00). Defendants take no position as to the proper amount of any
2 incentive payments to the Class Representatives and agree that they will not oppose an application by
3 Class Counsel for the Class Representatives' incentive payments. The effectiveness of this Settlement
4 will not be conditioned upon or delayed by the Court's failure to approve any incentive payments to
5 either Class Representatives, and/or the Court's award of incentive payments in an amount less than that
6 sought by either Class Representatives. Defendants shall have no obligation to pay any incentive
7 payments to the Class Representatives, separate from any amount awarded by the Court to the Class
8 Representatives from the Settlement Fund. Any fees not awarded shall be included within the Net
9 Settlement Fund for distribution to the Participating Settlement Class Members.

10 **3.1.8 Costs of Notice and Claims Administration.** Within ten (10) business
11 days of the Settlement Effective Date, the Class Administrator shall be reimbursed from the Settlement
12 Fund for its costs associated with the preparation and mailing of the Notice described in Section 4.2, and
13 the costs for distributing settlement checks to Class Members.

14 **IV. NOTICE TO THE CLASS**

15 **4.1 Contact Information of Potential Class Members.** Within ten (10) business
16 days of Preliminary Approval, Class Counsel shall provide the Class Administrator with the Class Home
17 List. The Class Administrator shall then determine the identity of all potential Settlement Class
18 Members by conducting a "chain of title" search for the names and addresses of all individuals who had
19 an ownership interest in the subject homes from the date of construction to the present date. The "chain
20 of title" search shall be supplemented with other information as set forth in Sections 4.3 and 4.4, below,
21 to arrive at address lists for the Settlement Class Members defined in Section 1.40 of this Settlement
22 Agreement.

23 **4.2 Notice to the Settlement Class.**

24 **4.2.0** Notice to the potential Settlement Class Members who were not Original
25 Class Members shall be substantially in the form attached hereto as Exhibit B.

26 **4.2.1** Notice to the Original Class Members shall be substantially in the form
27 attached hereto as Exhibit C.

28 **4.3 Notice by Mail is the Best, Most Fair and Most Reasonable Form of Notice**

1 **Practicable under the Circumstances.** The Parties agree that providing direct mailed notice to all
2 potential Settlement Class Members is the best, most fair and most reasonable form of notice practicable
3 under the circumstances.

4 **4.3.0** The Notices shall be mailed to all Settlement Class Members by the Class
5 Administrator within thirty (30) days of Preliminary Approval, in envelopes marked "Personal and
6 Confidential."

7 **4.3.1** Any Notices that are returned as non-deliverable with a forwarding
8 address shall promptly be re-mailed by the Class Administrator to such forwarding address. To the
9 extent that any Settlement Class Notices are returned as non-deliverable without a forwarding address,
10 the Class Administrator shall conduct a reasonable research to locate valid address information for the
11 intended recipients of such Settlement Class Notices, and shall promptly re-mail the Settlement Class
12 Notice, as applicable, to any Settlement Class Members for whom new address information is identified.

13 **4.4 Prior Homeowners.** Under the terms of the Settlement, the current owner shall
14 be deemed to have the right to payment from the Net Settlement Fund, unless a prior owner had re-piped
15 the home with PEX or an epoxy coating. Class Counsel have determined that it is impracticable to
16 inspect every home in the class to determine whether there has been a replacement of the copper pipes
17 by prior owners with PEX or an epoxy coating. Accordingly, a term of this Settlement is that prior to
18 the Final Approval of the Settlement, a prior owner must submit a verification that the prior owner had
19 re-piped the home with PEX or an epoxy coating. A Prior Owner Re-Piping Form shall be served with
20 the Settlement Class Notices and be available on a Class Settlement website maintained by the Class
21 Administrator, in the form attached hereto as Exhibit F.

22 **4.4.1. Procedure upon Prior Homeowner Submission of Prior Owners Verification**
23 **Form.** In the event a prior owner submits a Prior Owner Verification Form stating that the prior owner
24 has replaced the home's copper pipes with PEX or epoxy coating, then the Class Administrator shall
25 provide the present owner with written notice: (a) that a prior owner has submitted a Prior Owner
26 Verification stating that the prior owner replaced the home's copper pipes with PEX or epoxy coating;
27 and (b) the present owner has 30 days within which to submit a written verification that the home had
28 copper pipes (without any epoxy coating) at the time the present owner obtained title to the home. In the

1 event that there is a dispute between a prior and present owner as to whether a prior owner had replaced
2 the copper pipes with PEX or epoxy coating, then the two homeowners shall submit proof supporting
3 their claims to Hon. Nancy Wieben Stock (ret.) of JAMS who: (a) shall serve as arbitrator of the dispute;
4 and (b) whose determination of those competing claims shall be binding. The costs for Judge Stock's
5 services shall be deemed a "cost" that shall be deductible from the Settlement Fund.

6 **4.5 Requests for Exclusion.** The Notice attached as Exhibit B shall provide
7 Settlement Class Members who were not Original Class Members an opportunity to Opt Out. In order
8 to request exclusion, such Settlement Class Members must mail a written Request for Exclusion to the
9 Class Administrator. The Request for Exclusion must be signed by the Settlement Class Member, and
10 postmarked no later than the deadline for filing a Request for Exclusion set forth in the Preliminary
11 Approval Order entered by the Court. The Parties agree that they will propose to the Court that the
12 deadline for submitting a Request for Exclusion set forth in the Preliminary Approval Order be sixty
13 (60) days after the date Notice was last mailed. All Settlement Class Members who do not timely and
14 properly file a Request for Exclusion from the Settlement Class shall be bound by all proceedings,
15 orders, and judgments in the Action, even if the Settlement Class Member has pending, or subsequently
16 initiates, litigation against any of the Defendants relating to the release of Settled Class Claims. A
17 Settlement Class Member who chooses to be excluded from the Settlement Class will be excluded
18 entirely therefrom and, therefore, from participation in the Settlement. The Class Administrator shall
19 timely provide the Parties with copies of all Requests for Exclusion within seven days after receipt of
20 said Requests. In the event that in excess of 10% of the Participating Settlement Class Members opt out,
21 Defendants, at their sole discretion, may terminate this Settlement, but Defendants must give notice of
22 their intent to terminate the Settlement within 15 days after the deadline to submit a Request for
23 Exclusion.

24 **4.6 Objections to Settlement.** Any Settlement Class Member other than Opt Outs
25 may object to the Settlement, motions for attorneys' fees, costs and/or the proposed incentive awards,
26 and/or the proposed Final Approval Order and Judgment. Any Settlement Class Member who is not an
27 Opt Out and who wishes to file such an objection shall, by the date set forth in the Preliminary Approval
28 Order approved by the Court, mail to the Class Administrator a writing containing a clear and specific

1 statement of the objection, as well as the specific reason(s), if any, for each objection, including any
2 legal support the Settlement Class Member wishes to bring to the Court's attention and any evidence the
3 Settlement Class Member wishes to introduce in support of the objection. Any Settlement Class
4 Member who is not an Opt Out may file and serve a written objection either on his or her own or
5 through an attorney hired at his or her own expense. Any Settlement Class Member who is not an Opt
6 Out intending to make an appearance at the Final Approval Hearing must: (a) file a notice of
7 appearance with the Court no later than the date set in the Preliminary Approval Order approved by the
8 Court or as the Court may otherwise direct; and (b) mail a copy of the notice of appearance postmarked
9 by the date set forth in the Preliminary Approval Order to the Class Administrator.

10 **4.6.1** Opt Outs shall have no standing to object to the Settlement, motions for
11 attorneys' fees, costs and/or the proposed incentive awards, and/or the proposed Final Approval Order
12 and Judgment. As soon as possible after receipt of an objection, the Class Administrator shall provide a
13 copy of the objection and supporting papers (and the accompanying envelope or other packaging) to
14 Class Counsel and Defense Counsel. Any Settlement Class Member who fails to comply with the
15 provisions of this Section shall waive and forfeit any and all rights to object to the Settlement, motions
16 for attorneys' fees, costs and/or the proposed incentive awards, and/or the proposed Final Approval
17 Order and Judgment and shall be bound by all the terms of the Settlement Agreement and by all
18 proceedings, orders, and judgments in the Action.

19 **4.7 Proof of Payment.** Within ninety (90) days after the Settlement Effective Date,
20 the Class Administrator will certify to the Court that checks have been mailed to the Participating
21 Settlement Class Members. The certification required by this Section shall be by declaration(s), based
22 on the personal knowledge of the declarant(s), filed with the Court and served on Class Counsel and
23 Counsel for Defendants.

24 **V. RELEASE OF CLAIMS**

25 **5.1 Release by Class Representatives.** Upon the Settlement Effective Date, Class
26 Representatives and all of their respective heirs, executors, administrators, predecessors, successors and
27 assigns, shall and hereby do release and forever discharge Plaintiffs' Released Parties from the Settled
28 Claims of the Class Representatives.

1 **5.2 Release by Settlement Class Members.** Upon the Settlement Effective Date,
2 Settlement Class Members and all of their respective heirs, executors, administrators, predecessors,
3 successors and assigns, shall and hereby do release and forever discharge Plaintiffs' Released Parties
4 from the Settled Class Claims.

5 **5.3 Complete Defense.** The Parties shall be deemed to have agreed that the Releases
6 set forth in Sections 5.1 and 5.2 will be and may be raised by the Parties and Plaintiffs' Released Parties
7 as a complete defense to, and will preclude any action or proceeding based on the claims set forth
8 therein.

9 **5.4 Effectuation of Settlement.** None of the releases set forth herein includes
10 releases of claims to enforce the terms of the Settlement.

11 **VI. PRELIMINARY COURT APPROVAL OF THE SETTLEMENT**

12 **6.1 Motion for Preliminary Approval.** The Parties shall submit this Settlement to
13 the Court in support of the Motion for Preliminary Approval and shall request a determination by the
14 Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Settlement,
15 Class Counsel shall apply to the Court for the entry of the Preliminary Approval Order, which shall:

- 16 (a) Preliminarily approve the Settlement as fair, reasonable, and adequate;
17 (b) Approve as to form and content the proposed Notices substantially in the
18 forms attached hereto as Exhibits B and C;
19 (c) Approve the manner of providing Notice to the Settlement Class Members
20 as described in Section IV of this Settlement Agreement and find that this manner of notice constitutes
21 the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all
22 Settlement Class Members in accordance with California and federal laws and the Constitution of the
23 U.S.;
- 24 (d) Approve ILYM Group, Inc. as the Class Administrator, or another
25 administrator mutually agreed to by the Parties;
26 (e) Schedule the Final Approval Hearing to be held by the Court to determine:
27 (1) Whether the proposed Settlement should be finally approved as
28 fair, reasonable, and adequate;

1 (2) Whether the Final Approval Order and Judgment should be
2 entered;

3 (3) Whether Class Counsel's application for an award of attorneys'
4 fees and costs should be approved; and

5 (4) Whether the incentive awards to Plaintiffs as Class
6 Representatives should be approved.

7 (f) Provide that the Final Approval Hearing may be continued and adjourned
8 by the Court without further notice to the Class Members;

9 (g) Order that Notice to the Settlement Class Members, in the manner
10 described in Section IV of this Settlement Agreement, be disseminated;

11 (h) Approve the procedure for Settlement Class Members who are not
12 Original Class Members to file Requests for Exclusion, substantially in the manner set forth in
13 Section 4.5 of this Settlement Agreement, and setting a deadline for such Settlement Class Members to
14 exclude themselves from the Settlement Class;

15 (i) Provide that Settlement Class Members who do not file valid and timely
16 Requests for Exclusion will be bound by the Final Approval Order and Judgment and the releases set
17 forth in Section VI of the Settlement; and

18 (j) Declare the date on which the Court preliminarily approves the Settlement
19 as the date that the Settlement is deemed filed.

20 VII. FINAL COURT APPROVAL OF THE SETTLEMENT

21 **7.1 Entry of Final Approval Order and Judgment.** At the Final Approval Hearing,
22 the Parties will request that the Court, among other things, enter the Final Approval Order and
23 Judgment, in which the Court will: (a) approve the Settlement Agreement as fair, reasonable, adequate,
24 and binding on all Settlement Class Members who do not Opt Out; (b) enter the Final Approval Order
25 and Judgment in accordance with the terms of this Settlement Agreement; (c) determine the amount and
26 approve the payment of attorneys' fees and costs; (d) determine the amount of any incentive payments to
27 award to the Class Representatives; and (e) provide for the entry of judgment in the Action and for the
28 Release of all Settled Class Claims against the Plaintiffs' Released Parties by the Class Representatives

1 and all Settlement Class Members who have not submitted valid and timely Requests for Exclusion.

2 **7.1.0 Final Judgment.** The Final Approval Order and Judgment shall include a
3 final judgment, which shall:

4 (a) Approve the Settlement, adjudging the terms thereof to be fair, reasonable,
5 and adequate, and directing consummation of its terms and provisions;

6 (b) Approve Class Counsel's application for an award of attorneys' fees and
7 reimbursement of costs, insofar as said application has been granted by the Court;

8 (c) Approve the Class Representatives' incentive awards, insofar as said
9 incentive awards have been granted by the Court;

10 (d) Certify the Settlement Class for settlement purposes only;

11 (e) Permanently bar all Settlement Class Members (other than Opt Outs) from
12 prosecuting against Plaintiffs' Released Parties any and all of the Settled Class Claims; and

13 (f) Permanently bar the Class Representatives from prosecuting against
14 Plaintiffs' Released Parties any and all of the Settled Class Claims.

15 **VIII. MISCELLANEOUS PROVISIONS**

16 **8.1 Voiding the Agreement.** If the Court denies the Motion for Preliminary
17 Approval or does not enter the Final Approval Order and Judgment, or if the Court's entry of the Final
18 Approval Order and Judgment is reversed on appeal, the Settlement and all related papers including the
19 Motion for Preliminary Approval shall not be used nor be admissible in any subsequent proceedings
20 either in this Court or in any other Court or forum, and the \$1,371,348.00 Settlement Fund shall be
21 returned to Defendants, minus fifty percent (50%) of any actual Class Administrative costs incurred to a
22 limit of \$13,500 from Defendants.

23 **8.2 Signatories' Authority.** The signatories to the Settlement represent that they are
24 authorized to enter into this Settlement and bind their respective Parties to its terms and conditions.

25 **8.3 Mutual Full Cooperation.** The Parties agree to cooperate fully with each other
26 to accomplish the terms of this Settlement, including, but not limited to, execution of such documents
27 and to take such other action as may reasonably be necessary to implement the terms of this Settlement.
28 The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement

1 and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate the
2 terms of this Settlement. As soon as practicable after execution of this Settlement, Class Counsel shall,
3 with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure
4 the Court's Final Judgment.

5 **8.4 No Prior Assignments.** The Parties represent, covenant, and warrant that they
6 have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
7 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or
8 right released and discharged in this Settlement.

9 **8.5 Notices.** Unless otherwise provided herein, all legal notices, demands, or other
10 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
11 the third business day after emailing and mailing by U.S. registered or certified mail, return receipt
12 requested, addressed as follows:

13 (a) To the Class:

14 Richard K. Bridgford, Esq.
15 Michael H. Artinian, Esq.
16 Bridgford, Gleason & Artinian
17 26 Corporate Plaza, Suite 250
18 Newport Beach, CA 92660
19 mike.artinian@bridgfordlaw.com

20 Richard L. Kellner, Esq.
21 Kabateck LLP
22 633 West Fifth Street, Suite 3200
23 Los Angeles, CA 90017
24 rlk@kbklawyers.com

25 (b) To Defendants:

26 Joseph A. Ferrentino, Esq.
27 Jeffrey R. Brower, Esq.
28 Newmeyer & Dillion LLP
895 Dover Street, 5th Floor
Newport Beach, CA 92660
Joe.ferrentino@ndlf.com
Jeffrey.browner@ndlf.com

Anna S. McLean, Esq.
Sheppard Mullin Richter & Hampton LLP
4 Embarcadero Center, 17th Floor
San Francisco, CA 94111-4109
amclean@sheppardmullin.com

1 **8.6 Construction.** The Parties agree that the terms and conditions of this Settlement
2 are the result of lengthy, intensive arm's-length negotiations between the Parties' counsel, and that the
3 terms of this Settlement shall not be construed in favor of or against any Party.

4 **8.7 Captions and Interpretations.** Section titles or captions contained in this
5 Settlement are a matter of convenience and for reference, and in no way define, limit, extend, or
6 describe the scope of this Settlement or any provision. Each term of this Settlement is contractual and
7 not merely a recital.

8 **8.8 Modification.** This Settlement may not be changed, altered, or modified, except
9 in a writing signed by the Parties and their counsel, and approved by the Court. This Settlement may not
10 be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

11 **8.9 Integration Clause.** Except for the settlement agreements between Defendants
12 and Cross-Defendants, this Settlement contains the entire agreement between the Parties relating to the
13 resolution of the Action, and all prior or contemporaneous agreements, understandings, representations,
14 and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged
15 in this Settlement. No rights under this Settlement may be waived except in a writing signed by the
16 Party making the waiver and its counsel. Notwithstanding the forgoing, it is understood and agreed that
17 Defendants and Cross-Defendants will execute a separate settlement agreement documenting the terms
18 and conditions of the settlement of the claims and cross-complaint against Cross-Defendants.

19 **8.10 Binding on Assigns.** This Settlement shall be binding upon and inure to the
20 benefit of the Parties, Cross-Defendants, Plaintiffs' Released Parties and their respective heirs, trustees,
21 executors, administrators, successors, and assigns and, where applicable, all of their current or former
22 parent entities, corporations, subsidiaries, related and affiliated companies and entities, officers,
23 directors, agents, representatives, attorneys, insurers, predecessors, successors, assignees, employees,
24 and all individuals or entities acting by, through, under, or in concert with any of them.

25 **8.11 Class Counsel Signatories.** It is agreed that, because the Settlement Class
26 Members are so numerous, it is impossible or impractical to have each one execute this Settlement. The
27 Notice will advise all Settlement Class Members of the binding nature of the Release. Excepting only
28 the eligible Settlement Class Members who timely submit a Request for Exclusion, the Notice shall have

1 the same force and effect as if this Settlement were executed by each Settlement Class Member with
2 regard to the Settled Class Claims.

3 **8.12 Counterparts.** This Settlement may be executed in counterparts, and when each
4 Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
5 original, and, when taken together with other signed counterparts, shall constitute one Settlement, which
6 shall be binding upon and effective as to all Parties.

7 **8.13 Governing Law.** This Settlement Agreement shall be governed by the laws of
8 the State of California, without regard to choice-of-law principles.

9 **8.14 Continuing Jurisdiction.** The Court shall retain jurisdiction over the
10 interpretation and implementation of this Settlement Agreement.

11 **8.15 Venue.** Any and all actions or disputes arising out of this Settlement Agreement,
12 including without limitation the enforcement, interpretation, breach, or attempted rescission of this
13 Settlement Agreement, shall be brought exclusively in this Court.

14 **8.16 Waiver.** Any failure by any Party to insist upon the strict performance by any
15 other Party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of
16 the provisions of this Settlement Agreement, and such Party, notwithstanding such failure, shall have the
17 right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement
18 Agreement.

19 **8.17 Conflicts.** In the event of conflict between this Settlement Agreement and any
20 other prepared pursuant to the Settlement, other than any Court order, the terms of this Settlement
21 Agreement shall supersede and control. Notwithstanding the forgoing, it is understood and agreed that
22 Defendants and Cross-Defendants will execute a separate settlement agreement documenting the terms
23 and conditions of the settlement of the claims and cross-complaint against Cross-Defendants.

24 **8.18 Singular/Plural.** The plural of any defined term includes the singular, and the
25 singular of any defined term includes the plural, as the case may be.

26 **8.19 Reasonable Extensions of Time.** Without further order of the Court, the Parties
27 may agree to reasonable extensions of time to carry out any of the provisions of this Settlement.
28

1 **IT IS SO AGREED:**

2 Dated: 12/21/2022

DocuSigned by:
By: Enrique Del Rivero
BD9479E86F7F4BC...
Enrique Del Rivero
Class Representative Plaintiff

4 Dated: 12/21/2022

DocuSigned by:
By: Ana Del Rivero
BF6505C82F2B4C9...
Ana Del Rivero
Class Representative Plaintiff

7 Dated:

By: _____
Greg Estes
Class Representative Plaintiff

10 Dated:

By: _____
Cherie Estes
Class Representative Plaintiff

12 Dated: _____

CENTEX HOMES, a Nevada general partnership
and CENTEX REAL ESTATE CORPORATION, a
Nevada corporation
By: CENTEX REAL ESTATE COMPANY, LLC,
a Nevada limited liability company, as sole
Managing Partner, successor by conversion of
Centex Real Estate Corporation, a Nevada
Corporation

18 By: _____
19 Its: _____

20 Dated: _____

PULTE HOME CORPORATION

22 By: _____
23 Its: _____

IT IS SO AGREED:

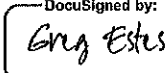
Dated:

By: _____
Enrique Del Rivero
Class Representative Plaintiff

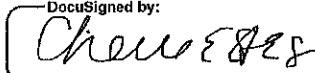
Dated:

By: _____
Ana Del Rivero
Class Representative Plaintiff

Dated: 12/19/2022

By:  _____
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Greg Estes
Class Representative Plaintiff

Dated: 12/19/2022

By:  _____
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Cherie Estes
Class Representative Plaintiff

Dated: _____

CENTEX HOMES, a Nevada general partnership
and CENTEX REAL ESTATE CORPORATION, a
Nevada corporation
By: CENTEX REAL ESTATE COMPANY, LLC,
a Nevada limited liability company, as sole
Managing Partner, successor by conversion of
Centex Real Estate Corporation, a Nevada
Corporation

By: _____
Its: _____

Dated: _____

PULTE HOME CORPORATION

By: _____
Its: _____

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IT IS SO AGREED:

Dated: _____ By: _____
Enrique Del Rivero
Class Representative Plaintiff

Dated: _____ By: _____
Ana Del Rivero
Class Representative Plaintiff

Dated: _____ By: _____
Greg Estes
Class Representative Plaintiff

Dated: _____ By: _____
Cherie Estes
Class Representative Plaintiff

Dated: 12-23-22

CENTEX HOMES, a Nevada general partnership
and CENTEX REAL ESTATE CORPORATION, a
Nevada corporation
By: CENTEX REAL ESTATE COMPANY, LLC,
a Nevada limited liability company, as sole
Managing Partner, successor by conversion of
Centex Real Estate Corporation, a Nevada
Corporation

By: _____
Its: _____
President

Dated: 12-23-22

PULTE HOME CORPORATION

By: _____
Its: _____
President

APPROVED AS TO FORM AND CONTENT:

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By: Michael H. Artinian
Michael H. Artinian, Esq.
Bridgford, Gleason & Artinian
Counsel for Plaintiffs

By: /s/Richard L. Kellner
Richard L. Kellner, Esq.
Kabateck LLP
Counsel for Plaintiffs

By: Joseph A. Ferrentino
Joseph A. Ferrentino, Esq.
Newmeyer & Dillon LLP
Counsel for Defendants