

1 Richard K. Bridgford, Esq., SBN: 119554
2 Michael H. Artinian, Esq., SBN: 203443
3 **BRIDGFORD, GLEASON & ARTINIAN**
4 26 Corporate Plaza, Suite 250
5 Newport Beach, CA 92660
6 Telephone: (949) 831-6611
7 Facsimile: (949) 831-6622

8 Richard L. Kellner, Esq., SBN: 171416
9 **KABATECK LLP**
10 633 West Fifth Street, Suite 3200
11 Los Angeles, CA 90017
12 Telephone: (213) 217-5000
13 Facsimile: (213) 217-5010

14 John Patrick McNicholas, IV, Esq., SBN: 125868
15 **McNICHOLAS & McNICHOLAS, LLP**
16 10866 Wilshire Blvd., Suite 1400
17 Los Angeles, CA 90024
18 Telephone: (310) 474-1582
19 Facsimile: (310) 475-7871

20 Attorneys for Plaintiffs James Foti, Jeff Swoboda
21 and the putative class of all other similarly situated.

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

24 JAMES FOTI, an individual; MARC LEBLANC,
25 an individual; PATRICIA LISCO, an individual;
26 JEFF SWOBODA, an individual; LUCIANA
27 SWOBODA, an individual, on behalf of themselves
28 and all others similarly situated,

Plaintiffs,

v.

JOHN LAING HOMES (CALIFORNIA), INC., a
Corporation; WL HOMES, LLC dba JOHN LAING
HOMES, a Limited Liability Company;
PLUMBING CONCEPTS, INC., a Corporation;
MUELLER INDUSTRIES, INC., a Corporation;
and DOES 1-100,

Defendants.

Case No. 30-2013-00649415-CU-CD-CXC

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

Judge: Hon. Glenda Sanders
Dept: CX-101
Complaint Filed: May 9, 2013

AMENDMENT TO CLASS ACTION SETTLEMENT AND RELEASE

1
2 Plaintiffs James Foti, Jeff Swoboda and Luciana Swoboda (“Plaintiffs”) individually and on
3 behalf of the Settlement Class described below, and defendants John Laing Homes (California), Inc. and
4 WL Homes, LLC dba John Laing Homes, LLC (collectively, “Defendants”), by and through their
5 respective counsel of record, hereby amend the Class Action Settlement and Release, dated March 8,
6 2022 (ROA #363, Exh. A thereto), the Settlement Notice (Exh. B thereto), and the Proposed Order
7 Granting Preliminary Approval (ROA #363, Exh. C thereto), and, to implement some minor changes in
8 accordance with comments and direction provided by the Hon. Glenda Sanders at the July 29, 2022
9 hearing regarding preliminary approval of class action settlement.

- 10 1. The Class Action Settlement and Release (ROA #363, Exh. A) shall be amended to include
11 the additional paragraph 4.4.1 as follows:

12 **4.4.1. Procedure Upon Prior Homeowner Submission of Prior Owners Verification**

13 **Form.** In the event a prior owner submits a Prior Owner Verification Form stating that the
14 prior owner has replaced the homes’ copper pipes with PEX or epoxy coating, then the Class
15 Administrator shall provide the present owner with written notice: (a) that a prior owner has
16 submitted a Prior Owner Verification stating that the prior owner replaced the homes’ copper
17 pipes with PEX or epoxy coating; and (b) the present owner has 30 days within which to
18 submit a written verification that the home had copper pipes (without any epoxy coating) at
19 the time the present owner obtained title to the home. In the event that there is a dispute
20 between a prior and present owner as to whether a prior owner had replaced the copper pipes
21 with PEX or epoxy coating, then the two homeowners shall submit proof supporting their
22 claims to Ross Feinberg, Esq. of JAMS who: (a) shall serve as arbitrator of the dispute; and
23 (b) whose determination of those competing claims shall be binding. The costs for Ross
24 Feinberg’s services shall be deemed a “cost” that shall be deductible from the Settlement
25 Fund.

- 26 2. The Proposed Order Granting Preliminary Approval (ROA #363, Exh. C thereto) shall be
27 amended as follows:
28

1 a. Paragraph 4 shall have the following sentence deleted: “Accordingly, the Court
2 preliminarily finds that the Settlement Agreement was entered into in good faith,
3 pursuant to Section 877.6 of the California Code of Civil Procedure.” As a result,
4 the amended paragraph 4 of the Proposed Order Granting Preliminary Approval shall
5 be amended to provide as follows:

6 4. The Court further preliminarily finds that the terms of the Settlement
7 Agreement have no obvious deficiencies and do not improperly grant preferential
8 treatment to any individual class member.

9 b. Paragraph 10 shall be amended to include the following paragraph 10 (b)(i) as
10 follows:

11 i. In the event a prior owner submits a Prior Owner Verification
12 Form stating that the prior owner has replaced the homes’ copper pipes
13 with PEX or epoxy coating, then the Class Administrator shall provide the
14 present owner with written notice: (a) that a prior owner has submitted a
15 Prior Owner Verification stating that the prior owner replaced the homes’
16 copper pipes with PEX or epoxy coating; and (b) the present owner has 30
17 days within which to submit a written verification to the Class
18 Administrator that the home had copper pipes (without any epoxy coating)
19 at the time the present owner obtained title to the home. In the event that
20 there is a dispute between a prior and present owner as to whether a prior
21 owner had replaced the copper pipes with PEX or epoxy coating, then the
22 two homeowners shall submit proof supporting their claims to the Class
23 Administrator who will forward such documentation to Ross Feinberg,
24 Esq. of JAMS who: (a) shall serve as arbitrator of the dispute; and (b)
25 whose determination of those competing claims shall be binding. The
26 costs for Ross Feinberg’s services shall be deemed a “cost” that shall be
27 deductible from the Settlement Fund.
28

1 c. Paragraph 23 shall be deleted and the remaining paragraphs shall be renumbered
 2 thereafter consistent therewith. That paragraph had provided, “~~Any Settlement Class~~
 3 ~~Member who does not make an objection in the time and manner provided shall be~~
 4 ~~deemed to have waived such objection and forever shall be foreclosed from making any~~
 5 ~~objection to the fairness or adequacy of the proposed settlement as incorporated in the~~
 6 ~~Settlement Agreement, the payment of attorneys’ fees and costs, or the Final Approval~~
 7 ~~Order and Judgment.”~~”

8 d. Paragraph 25 shall have the following sentence deleted: “~~Consideration of any~~
 9 ~~application for an award of attorneys’ fees, costs, expenses and incentive awards shall be~~
 10 ~~separate from consideration of whether or not the proposed Settlement should be~~
 11 ~~approved, and from each other, and shall be embodied in separate orders.”~~ As a result,
 12 the renumbered Paragraph 24 of the Proposed Order Granting Preliminary Approval
 13 (ROA #363, Exh C thereto) shall provide as follows:

14 24. A Final Approval Hearing shall be held before this Court at **1:30 p.m. on**
 15 **December 16, 2022** in Dept. CX-101 of the Orange County Superior Court, to
 16 address: (a) whether the proposed Settlement should be finally approved as fair,
 17 reasonable and adequate, and whether the Final Approval Order and Judgment
 18 should be entered; and (b) whether Class Counsel’s application for attorneys’
 19 fees, costs, expenses and incentive awards should be approved. The date and time
 20 of the Fairness Hearing shall be set forth in the Class Notice. The Court retains
 21 jurisdiction to consider all further applications arising out of or in connection with
 22 the Settlement Agreement.

23 3. The Settlement Notice (ROA #363, Exh. B thereto), paragraph 11 shall be amended to
 24 include the highlighted provision as follows:

25 If you are a prior owner who has replaced the copper pipes with PEX or epoxy coatings,
 26 you must submit the Prior Owner Verification Form to the Settlement Administrator by

27 _____.

If you are a present owner and no prior owner submits a Prior Owner Verification Form, you do not need to do anything to participate in the settlement. You will then receive your settlement payment if you do not opt out, the Court grants final approval of the settlement, and that approval becomes final.

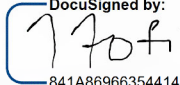
In the event a prior owner submits a Prior Owner Verification Form stating that the prior owner has replaced the homes' copper pipes with PEX or epoxy coating, then the Class Administrator shall provide you with written notice: (a) that a prior owner has submitted a Prior Owner Verification stating that the prior owner replaced the homes' copper pipes with PEX or epoxy coating; and (b) the present owner has 30 days within which to submit a written verification that the home had copper pipes (without any epoxy coating) at the time the present owner obtained title to the home.

In the event that there is a dispute between the prior and present owner as to whether a prior owner had replaced the copper pipes with PEX or epoxy coating, then the two homeowners shall submit proof supporting their claims to the Class Administrator who shall forward such writings to Ross Feinberg, Esq. of JAMS who: (a) shall serve as arbitrator of the dispute; and (b) whose determination of those competing claims shall be binding. The costs for Ross Feinberg's services shall be deemed a "cost" that shall be deductible from the Settlement Fund.

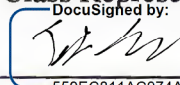
Please contact the Settlement Administrator at the telephone number or email address on the bottom of each page of this notice if this notice was not mailed to your current address, or if you currently have any plans to move, to ensure that your current address is used.

IT IS SO AGREED:

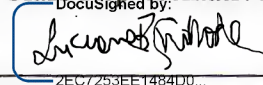
Dated:

DocuSigned by:

By: 841A86966354414...
James Foti
Class Representative Plaintiff

Dated:

DocuSigned by:

By: 569EC811AC074AA...
Jeff Swoboda
Class Representative Plaintiff

Dated:

DocuSigned by:

By: 2EC7253EE1484D0...
Luciana Swoboda
Class Representative Plaintiff

Dated: 8-1-22

By: Robert B. Hill, FOR
WL HOMES, LLC
Defendant

APPROVED AS TO FORM AND CONTENT:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

By: Robert B. Titus
Robert B. Titus, Esq.
Lorber, Greenfield & Polito
Counsel for Defendants