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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

IN RE: WIRSBO NON-F1807 YBFs

Case No.: 2:08-cv-1223-NDF-(MLC)

AFFIDAVIT OF MICHAEL J. GAYAN

STATE OF NEAVDA)
) ss.
COUNTY OF CLARK)

Michael J. Gayan, being duly sworn, under oath, states as follows:

1. I am an attorney in the firm of Kemp, Jones & Coulthard, LLP, and work under the direction of J. Randall Jones, Esq., the attorney appointed as Lead Class Counsel in the above-captioned matter, and have personal knowledge of the facts stated herein except those matters stated on information and belief, and as to those matters I believe them to be true.

2. This Affidavit is submitted in support of the Joint Motion for Preliminary Approval of Class Action Settlement and Approval of Form and Dissemination of Class Notice.

3. I have been involved in prosecuting claims involving Wirsbo Non-F1807 YBFs in this class action as well as the following related state court actions spanning the past several years:

- a. *Gables Condominium Owners Ass'n v. Gables LLC, et al.*, Case No. A-06-533498;
- b. *Vegas Star Condominium Ass'n v. Mark Properties, Inc., et al.*, Case No. A-07-543785;
- c. *Aventine-Tramonti Homeowners Ass'n v. Town Center Ventures LLC, et al.*, Case No. A-08-555328;
- d. *Desert Pines Villas Homeowners Ass'n v. Desert Pines Associates, LLC*, Case No. A-08-561471;

- e. *Barrett v. Real Homes Inc., et al.*, Case No. A-08-577531 (consolidated with *Cramer v. Centex Homes, et al.*, Case No. A-10-625355);
 - f. *Traverse Point Condominium Unit-Owners Ass'n Inc. v. Traverse Point Associates, et al.*, Case No. A-09-600069;
 - g. *Winters v. KB Home Nevada Inc.*, Case No. A-09-601341;
 - h. *Coronado Homeowners Ass'n v. H-D Paseo, LLC, et al.*, Case No. A-10-609426;
 - i. *Turtle Creek Master Homeowners Ass'n, Inc. v. US Home Corp., et al.*, Case No. A-10-620170;
 - j. *KB Home Nevada Inc. v. Adams, et al.*, Case No. A-11-647351;
 - k. *Stonebrook Homeowners Ass'n v. Centex Homes, et al.*, Case No. A-12-660835;
- and
- l. *Sturgiss v. KB Home Nevada Inc.*, Case No. A-14-694741).

4. Of these 12 state court actions, Uponor and the respective plaintiffs have reached prior settlements in all but five of the actions (*Vegas Star, Barrett/Cramer, Coronado, Stonebrook, and Sturgiss*), and those five actions will be resolved in conjunction with the proposed Settlement.

5. Since the *Slaughter* action was commenced in July 2008, the parties have conducted a substantial amount of discovery related to Wirsbo Non-F1807 YBFs in the above-captioned action and in numerous dezincification-related matters pending in various state and federal courts. The discovery included, among other items, extensive expert investigations and testing, expert reports and depositions, percipient witness depositions, written discovery, and document production. In all, Class Counsel participated in more than 1,000 depositions in cases related to dezincification of high-zinc content brass fittings, hundreds of which were in cases involving Wirsbo Non-F1807 YBFs. The depositions included Uponor's 30(b)(6) designees on dozens of topics in this class action and experts (including but not limited to Class Plaintiffs' and Uponor's experts) in numerous related actions. Many of these depositions included examination related to the more than 200,000 pages of documents provided by Class Plaintiffs,

1 the more than 500,000 pages of documents produced by the Uponor Defendants, and the more
2 than 115,000 photographs taken during the investigation of Wirsbo Non-F1807 YBFs installed
3 in homes throughout the Las Vegas Valley. The parties established a joint digital repository for
4 all documents and photographs produced in this case.

5 6. Class Plaintiffs' discovery efforts included more than 700 home inspections and
6 the extraction of more than 3,500 fittings, of which nearly 750 were subjected to expert
7 metallurgical testing. Class Plaintiffs maintained an evidence warehouse containing all
8 extracted samples and coordinated visits to that warehouse by the defending parties, including
9 the Uponor Defendants. Class Plaintiffs retained experts in the necessary disciplines to
10 prosecute this action, including a metallurgist, master plumber, building code expert,
11 statistician, and warranty analyst. In the various related matters that Class Counsel prosecuted
12 on behalf of individual clients, dozens of expert reports were produced with a nearly equivalent
13 number of expert depositions being taken.

14 7. Discovery in this case and the related cases indicates that the Uponor Defendants
15 sold and distributed the Wirsbo Non-F1807 YBFs in the Las Vegas Valley from approximately
16 1996 to approximately 2012. The proposed class covers all installations of these Wirsbo Non-
17 F1807 YBFs products. Discovery and communications with the Uponor Defendants have shown
18 that the Uponor Defendants are unable to estimate exactly how many homes and buildings
19 contain Wirsbo Non-F1807 YBFs covered by this settlement. In addition, the Uponor
20 Defendants do not have records that allow the parties to identify exactly where the Wirsbo Non-
21 F1807 YBFs were installed in the Las Vegas Valley. However, information obtained during
22 discovery indicates Wirsbo Non-F1807 YBFs may have been installed in anywhere from
23 100,000 to 150,000 homes and buildings located in the Las Vegas Valley.

24 8. Since the July 2008 inception of this litigation, Class Counsel have engaged in
25 formal mediation sessions and/or informal settlement discussions with the Uponor Defendants,
26 Pulte/Del Webb, Carina, and other non-Uponor defendants in an effort to resolve claims related
27 to Wirsbo Non-F1807 YBFs. Those efforts, while productive, did not yield any settlements.

1 9. Although in February 2014 global preliminary settlement discussion began,
2 which included references to the class claims set forth in the instant litigation, it was not until
3 mid-2014—after the parties to the related *George* action signed a Memorandum of
4 Understanding (“MOU”) resolving that litigation—that Class Counsel and the Uponor
5 Defendants began more formal mediation efforts with mediator Ross Hart, Esq. focused solely
6 on the class claims involved in this litigation. And in August 2014, Class Counsel and the
7 Uponor Defendants signed an MOU to resolve the Wirsbo Non-F1807 claims for structures
8 located in the Las Vegas Valley. The parties negotiated the amount of attorney’s fees and costs
9 only after agreeing to all other settlement terms.

10 10. Thereafter, the Uponor Defendants, with Mediator Hart’s continued assistance,
11 initiated formal settlement discussions with the Materially Contributing Entities (the “MCEs”)
12 and the respective insurance carriers. After the Uponor Defendants mediated with the MCEs
13 and insurance carriers for approximately four months, Class Counsel and Uponor’s counsel then
14 addressed finalizing the language of the settlement agreement and all related settlement
15 documents. This process involved scores of calls and emails and several in-person meetings
16 involving Class Counsel, Uponor’s counsel, and the Materially Contributing Entities’ counsel
17 before finalizing the proposed Agreement and attendant documents. This process did not
18 conclude until April 2015.

19 11. In early 2015, unanticipated issues arose that threatened to derail the settlement.
20 The parties held additional in-person mediation sessions with Mediator Hart, which ultimately
21 resolved the new issues and allowed the settlement to be finalized.

22 12. Attached hereto as Exhibit 1 is a true and correct copy of the Class Action
23 Settlement Agreement and Release.

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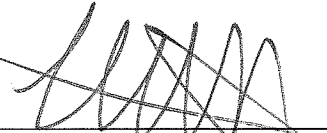
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13. Attached hereto as Exhibit 2 is a true and correct copy of the Affidavit of Shannon Wheatman, Ph.D. as well as the long-form and short-form notices.

DATED this 26th day of May, 2015.


MICHAEL J. GAYAN

Subscribed and sworn to before me
this 26th day of May, 2015.


Notary Public

