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2 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
3 FOR THE COUNTY OF RIVERSIDE

4 JENNIFER BEAUDET, RONALD BEAUDET,  
5 NICK RIPOLY, MICHELLE RIPOLY, JOHN  
6 DALLAH, and SHARON DALLAH,  
7 individually, on behalf of all others similarly  
situated, and in the public interest,

8 Plaintiffs,

9 vs.

10 WESTERN PACIFIC HOUSING - NORCO  
11 ESTATES, LLC, a Limited Liability Company;  
12 LAMCO HOUSING, INC., a Corporation;  
13 SCHULER HOMES, INC., a Corporation; and  
DOES 1 through 100, inclusive,

14 Defendants.

Case No. 369796  
(Honorable Edward Webster, Dept. 5)  
JAMS Reference No. 1200031905

Hon. Edward J. Wallin (Ret.)  
Judicial Referee

**[Proposed] ORDER AND JUDGMENT  
APPROVING SETTLEMENT  
[CRC 1859(h)]**

Date: November 20, 2006  
Time: 9:00 a.m.  
Place: JAMS

Date Action Filed: January 15, 2002  
Trial Date before JAMS: Vacated

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16  
17 On November 20, 2006, this matter came on for hearing before the Honorable Edward J.  
18 Wallin (Ret.), Referee on two motions:

19 (i) a joint motion for final approval of a class settlement (the “Final Approval Motion”)  
20 described in the parties’ settlement agreement (the “Settlement Agreement”) attached hereto as  
21 **Exhibit A**, brought by plaintiffs Jennifer Beaudet, Ronald Beaudet, John Dallah, and Sharon  
22 Dallah (“Plaintiffs”) and defendants Western Pacific Housing – Norco Estates, LLC, Lamco  
23 Housing, Inc., and D.R. Horton, successor by merger to Schuler Homes, Inc. (“Defendants”); and

24 (ii) a motion for approval of attorneys’ fees, reimbursement of actual expenses, and  
25 approval of class representative compensation (the “Fee Motion”), brought by Plaintiffs.

26 The Referee has considered these two motions in light of the Order Preliminarily  
27 Approving Settlement and Approving Form and Content of Notice to Class Members  
28 (“Preliminary Approval Order”), which the Referee signed on September 27, 2006 and the

1 Superior Court signed on October 10, 2006.

2 Any terms not otherwise defined in this Order and Judgment shall have the same meaning  
3 as in the Settlement Agreement.

4 Upon hearing the Final Approval Motion and Fee Motion, and good cause appearing,  
5 IT IS HEREBY ORDERED AND ADJUDGED as follows:

6 **I. Final Approval Motion**

7 1. The Final Approval Motion is GRANTED.

8 2. The Referee reaffirms certification of a settlement class whose members are  
9 identified on the List of Class Members, attached hereto as **Exhibit B**. (*See* Preliminary Approval  
10 Order.) That settlement class (the “Class”) is the class that is subject to this Order and Judgment.  
11 Those members who properly opted out are listed on **Exhibit C** hereto and are not bound by any  
12 terms of this Order and Judgment. The term “Final Class Members” is used herein to refer to the  
13 Class members listed in Exhibit B but not listed in Exhibit C.

14 3. The Referee finds and concludes that the parties gave notice to the Class as directed  
15 in the Preliminary Approval Order. The Referee reaffirms that the form and contents of said  
16 notice and the manner of giving it fully satisfied the requirements of the California Rules of Court  
17 and the requirements of state and federal constitutional due process.

18 4. The Referee finds and concludes that the settlement as set forth in the Settlement  
19 Agreement is fair, adequate, and reasonable to the Class, for the reasons given by the parties in  
20 their papers and declarations in support of final approval. *See In re Microsoft I-V Cases* (2006)  
21 135 Cal.App.4th 706, 723 (reiterating “fair, adequate, and reasonable” standard for approval of  
22 class settlements).

23 5. Pursuant to the Settlement Agreement, the above-captioned lawsuit is dismissed  
24 with prejudice as to Plaintiffs and all Final Class Members.

25 6. As provided in the Settlement Agreement, Plaintiffs and all Final Class Members  
26 and their assigns and successors in interest release and forever discharge Defendants and their  
27 respective officers, directors, owners, employees, representatives, predecessors, subsidiary  
28 entities, affiliates, attorneys, agents and assigns from any and all claims, demands, costs, expenses,

1 attorneys' fees, damages, losses, causes of action, obligations and liabilities, whether known or  
2 unknown, whether in law or equity, relating to any or all of the claims or allegations in the Action,  
3 including those asserted in the "Complaint" or "SAC," (*see supra* at p. 2) or relating in any way to  
4 Wyle Laboratories' Norco facility, the Norco Battery site (also known as the B&H Battery site),  
5 the Sav-On store in the shopping center adjacent to the Hidden Valley development, future  
6 planned development in the Norco Hills area or Western Pacific's alleged non-disclosure of future  
7 planned development in the Norco Hills area, or Western Pacific's non-disclosure or incomplete or  
8 inaccurate disclosure of any other information relating to the Hidden Valley development or  
9 Norco Hills area, including the homes of the Final Class Members, that the Final Class Members  
10 now have or might have in the future against Defendants and/or their respective officers, directors,  
11 owners, employees, representatives, predecessors, subsidiary entities, affiliates, attorneys, agents  
12 and assigns. This release does **not** extend to any claims that Final Class Members may have for  
13 breach of warranty or construction defects that are not expressly stated in the "Complaint" or  
14 "SAC"; nor does it extend to claims to perform Defendants' obligations under the settlement as  
15 herein approved or constitute a waiver of the rights created by the Settlement Agreement or this  
16 Order and Judgment; nor does it extend to claims against Wyle Labs or any affiliate of or  
17 successor in interest to Wyle Labs.

18           7.       Plaintiffs and the Final Class Members are hereby deemed to have expressly  
19 waived and relinquished all rights and benefits they may have under California Civil Code section  
20 1542. That section reads as follows:

21                   **A general release does not extend to claims which the creditor does not know**  
22                   **or suspect to exist in his or her favor at the time of executing the release,**  
23                   **which if known by him or her must have materially affected his or her**  
24                   **settlement with the debtor.**

25           8.       The parties shall carry out all of their respective obligations described in the  
26 Settlement Agreement, within the time limits stated therein, including but not limited to  
27 distribution of funds to the Final Class Members.  
28

1 **II. Fee Motion**

2 9. The Fee Motion is GRANTED.

3 10. The Referee finds and concludes that the award of attorneys' fees, the  
4 reimbursement of direct expenses, and the award of class representative compensation in the  
5 amounts requested in the Fee Motion is reasonable and appropriate for the reasons given in the  
6 papers and declarations in support of the Final Approval Motion and Fee Motion.

7 11. The firms Lanza & Goolsby, a Professional Law Corporation, the Borderud Law  
8 Group, and Law Offices of Clifford A. Cantor, P.C. are collectively awarded attorneys' fees of  
9 \$\_\_\_\_\_, to be paid out of Defendants' "Primary Payment" pursuant to the terms of the  
10 Settlement Agreement. This sum will be distributed among plaintiffs' counsel at the sole  
11 discretion of the above-three firms, as they mutually see fit. In setting this award, this Referee  
12 relied primarily on the percentage-of-the-fund approach and finds and concludes that 30% of the  
13 "Primary Payment" amount is reasonable, especially given that a large number of class members  
14 freely entered into engagement agreements with Lanza & Goolsby that specified attorneys' fees at  
15 30% of the gross recovery, thereby setting a market value for legal services in this matter. Cross-  
16 checking the reasonableness by the lodestar-and-multiplier amount, the Referee considered and  
17 weighed the following factors, among others: (a) the novelty and difficulty of the case; (b) the  
18 time and effort devoted by plaintiffs' counsel; (c) the contingent nature of the case and the  
19 uncertainty of prevailing on the merits; (d) the skill they displayed; (e) the preclusion of other  
20 employment; and (f) the results achieved. *See Serrano v. Priest* (1997) 20 Cal.3d 25, 49.

21 12. The firms Lanza & Goolsby, a Professional Law Corporation, the Borderud Law  
22 Group, and Law Offices of Clifford A. Cantor, P.C. are collectively awarded reimbursement of  
23 their direct expenses of \$\_\_\_\_\_, as documented in the Lanza, Borderud, and Cantor  
24 declarations and requested in the Fee Motion, that the three firms advanced (or, to a limited extent,  
25 will advance) on behalf of Plaintiffs and the Class during the course of this litigation, to be paid  
26 out of Defendants' "Primary Payment" pursuant to the terms of the Settlement Agreement.

27 13. The Class Representatives Mr. and Mrs. Beudet and Mr. and Mrs. Dallah are  
28 awarded compensation of \$\_\_\_\_\_ per couple, to be paid out of Defendants' "Primary

1 Payment” pursuant to the terms of the Settlement Agreement.

2 14. Except as provided herein, all parties and Class Members are responsible for their  
3 own attorneys’ fees, costs, and expenses.

4 **III. Miscellaneous**

5 15. Notwithstanding the dismissal of this case, the Referee and Superior Court retain  
6 continuing and exclusive jurisdiction over the Plaintiffs, Defendants, and all Final Class Members  
7 with respect to the interpretation, administration, effectuation, implementation, and enforcement of  
8 the Settlement Agreement and this Order and Judgment. (See CRC 1859(h).)

9  
10 **IT IS SO ORDERED.**

11 Dated: \_\_\_\_\_, 2006

\_\_\_\_\_  
12 Honorable Edward J. Wallin (Ret.)  
13 Judicial Referee

14 Dated: \_\_\_\_\_, 2006

\_\_\_\_\_  
15 Honorable Edward Webster  
16 Judge of the Superior Court

17 Attachments

- 18 A. Settlement Agreement
- 19 B. List of Class Members
- 20 C. Class Members Who Opted Out

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