

IN THE CIRCUIT COURT
FOR HOWARD COUNTY, MARYLAND

JASON W. ROYAL

and all others similarly situated

Plaintiffs,

[vs]

Civil No: 13-C-04-059581 OC

EASTERN HOMES, INC., et. al.

Defendants.



**NOTICE OF CLASS ACTION LAWSUIT AND PROPOSED SETTLEMENT WITH
DEFENDANT MAPLE PARK**

TO: All persons who are tenants in the Maple Park Mobile Home Park:

IF YOU QUALIFY, MAPLE PARK HAS AGREED TO A RENT ABATEMENT FOR YOU AS DESCRIBED BELOW. COUNSEL FOR PLAINTIFFS BELIEVE THAT THIS PROVIDES CONSIDERABLE VALUE TO THE CLASS. TO OBTAIN THESE BENEFITS YOU MUST COMPLETE THE ATTACHED CLAIM FORM. PLEASE READ BELOW.

PLEASE READ THIS NOTICE CAREFULLY.
THIS IS **NOT** A NOTICE OF A LAWSUIT AGAINST YOU.
YOU MAY BENEFIT FROM READING THIS NOTICE.

WHAT THIS LAWSUIT IS ABOUT

A Class Action Complaint and Motion and Memorandum in Support of Class Certification were originally filed in this matter on August 24, 2004. There have been several amendments to the Complaint since the initial filing. The final amendment sought certification of two classes, Class I and Class II. The Lawsuit alleged that the defendants negligently installed mobile homes causing damages to the homes, including but not limited to, breaching the HUD mandated seal each home has when it is initially installed and that this happens, objectively and verifiably, at the inception of the negligent installation and worsens with time. Specifically, it was alleged that the homes sit on foundation piers that are set on grade and do not have footings below the frost-line of each pier and used improper hurricane tie down anchoring systems. It was further alleged that, as a result, a significant risk of significant personal injury and/or death exists. Class I has six counts certified all of which require the same facts as proof (sounding in tort, contract and warranty tort). The Claims included Strict Liability in Tort; Unjust Enrichment/Constructive

Trust; Injunctive/Declaratory Relief; Breach of State Law Express/Implied Warranty; Breach of Magnuson-Moss Warranty Act; Breach of Contract.

Defendants denied liability and raised numerous defenses.

On or about May 11, 2005, Defendants filed an Opposition to Plaintiffs' Motion and Memorandum in Support of Class Certification. The initial class certification hearing was continued by consent to allow the parties to engage in substantial discovery and submit supplemental memoranda incorporating and relying upon the discovery. On February 15, 2006, upon consent of all the parties, Defendants filed a Joint Supplemental Memorandum in Opposition to Plaintiffs' Motion and Supplemental Memorandum after extensive discovery was completed on class certification issues. This followed Plaintiffs' own supplemental memorandum which incorporated many key admissions including that Defendants' own experts concurred in many respects with many of the findings and conclusions of the Plaintiffs' experts.

The Court held oral arguments on March 3, 2006. On that day, in addition to extensive oral argument, several witnesses testified as to the nature of the defects and damages to the class including Plaintiffs' geotechnical engineer Dr. Robert Kondner and Plaintiffs' manufactured housing expert Roy Bonney. In addition, testimony was received vis-à-vis deposition transcripts and in other forms.

On August 15, 2006, this Court certified Class I which generally consisted of:

All persons in Maryland whose manufactured home was installed by Eastern Homes, Inc. after August 25th, 2000 and whose home: 1) does not have footings under each pier that extend below the locally established frost line; or 2) does not have load carrying portions of the ground anchors that extend below the locally established frost line; or 3) does not have ground anchors which utilize either a stabilizer plate or a concrete cylindrical collar; or 4) does not have anchoring equipment that is capable of resisting an allowable working load equal to or exceeding 3,150 pounds and capable of withstanding a 50 percent overload (4,725 pounds total) without failure of either the anchoring equipment or the attachment point on the manufactured home.

The Court appointed the undersigned as Class Counsel and John and Cordelia Walser and Lawrence Corwin as Class Representatives. The Court denied certification of Class II in the same order.

Thereafter, Defendants moved *twice* to have the class decertified and upon the second request, the Court held an oral argument. Each of the requests were denied by the Court as they offered no new arguments and nothing had changed since the initial extensive briefing and oral argument period.

The parties held informal settlement discussion throughout this process spanning over one year consisting of numerous meetings and communications and involving at least two (2) Court appointed settlement judges, the Honorable Hilary Caplan (beginning in the fall, 2006) and the Honorable Daniel W. Moylan (beginning in the spring 2007) each of whom are retired Circuit Court Judges for the State of Maryland.

In the meantime, on or about the eve of the scheduled trial in this matter (March, 2007) the insurance companies for the Named Defendant Eastern Homes, Inc., Penn National Mutual Insurance Co., Inc. and American Modern Insurance Co., filed a declaratory judgment action in federal court in Baltimore alleging that there was no coverage (no duty to defend nor duty to indemnify) for Eastern Homes, Inc. (See PENN NATIONAL INSURANCE COMPANY, et al.

v. EASTERN HOMES, INC., et al. United States District Court for the District of Maryland at Baltimore, Case No.: 1:07-cv-00672 (Judge Richard D. Bennett). The insurance carriers chose to sue not only their insured but also the following mobile home owners, some of whom were members of Class I and some of whom were not: Jason W. Royal, Leonard Stewart, Melinda Stewart, Sharon E. Stanhope (A/K/A Sherry E. Stanhope), Donald & Antoinette Scaran, Cordelia and John Walser, Lawrence Corwin, Anna Azni, Samuel Crouch, Nancy Defina, Sheldon McNeil, Joshua Mendoza, John Morrill, Michael Neville, Beverly Payne, Mary Purdham, Jeffrey Quade, Cecelia Queen, Johnner Reilly, Hamilton Shoop, Christy Stanton, Thomas Tarmon Trust, William Thomas, Christopher Weiffenbach, John Cain, Marlene Carlton, and Helen Taylor (collectively “mobile” / manufactured home owners”). The Class and other non-class mobile home owners moved to dismiss the declaratory judgment action as did Defendant Eastern Homes, Inc. In the meantime, numerous settlement conferences involving all parties and the insurance carriers occurred over the summer of 2007. Throughout the summer of 2007, the parties remained unable to reach a settlement. By early fall of 2007, Judge Moylan, having read and digested the voluminous record herein and after having held numerous settlement conferences at the Circuit Court for Howard County, had a firm understanding of all issues related to this matter, including insurance issues. These settlement conferences at the Circuit Court failed to result in a settlement although progress was methodically made after each party and the carriers explained their respective arguments as to liability, damage and coverage.

Judge Moylan then summonsed all parties, including the insurance carriers through counsel, to his estate The Long Meadows in Hagerstown, Maryland on September 12, 2007 for a continuation of the Settlement Conference, instructing counsel to submit any additional information by September 10th. After nearly a full day, and significant concessions by the Plaintiff Class and the Defendant Eastern Homes, the parties made substantial progress including with Penn National, the insurer for Eastern Homes whose policies insure the period of time for which Class I was certified by this Court. By the end of the day, the parties believed that a global settlement which included Penn National had been reached in principle and counsel for the carrier requested a brief recess of a week or so to obtain approval. The parties, in the meantime, had been prosecuting and defending Motions in *Limine* and continuing to prepare for trial. On or about the middle of September, 2007, the parties were informed by counsel for Penn National that there would be no settlement offer from that carrier at that time.

On or about September 25, 2007, the Class, having been satisfied that Penn National would not enter into the proposed settlement in this matter at that time, entered into a settlement in principle with Defendant Eastern Homes, Inc. which settlement was due in large part to the able assistance and recommendations by Judge Moylan.

As to the declaratory judgment action, PENN NATIONAL INSURANCE COMPANY, et al. v. EASTERN HOMES, INC., et al. United States District Court for the District of Maryland at Baltimore, Case No.: 1:07-cv-00672 (Judge Richard D. Bennett), the case was dismissed by Judge Bennett on November 19, 2007 for discretionary jurisdictional reasons over the objections of the insurance companies and at the urging of the mobile home owners and Eastern Homes. Judge Bennett dismissed the action because, among other reasons “...a resolution of the duty to indemnify issue involves factual determinations relevant to the state court case.” The respective carriers took an appeal to the United States Court of Appeals in Richmond, Virginia. As part of that appeal process, the 4th Circuit appointed a mediator experienced in the issues related to not only the appeal but the underlying case. On or about April 1, 2008, all

parties participated in a mediation with Tom Ball the Court appointed mediator. The mediation began in the morning and Mr. Ball took substantial time with each side until the matter endured until after lunch, progress again being made. The mediation as adjourned with the carrier requesting additional time for the matter to be considered. Within the next several weeks, with the assistance behind the scenes of Tom Ball, the parties were finally after exhaustive efforts, able to reach what is deemed a settlement in the best interests of the Class.

Additionally, the Plaintiffs and Maple entered into a separate settlement agreement in the summer of 2006 and seek to implement that agreement now which is discussed below.

Maple Park has denied liability and has raised defenses. The Court has not made any decision concerning the merits of the lawsuit.

Counsel for the Plaintiffs and counsel for Defendant Maple Park have negotiated a proposed settlement with Maple Park. On June 26, 2008, Judge Lenore R. Gelfman (i) determined that this action should proceed as a class action, for purposes of settlement only, with respect to the claims of the Plaintiffs against Maple Park only, with Plaintiffs Jason W. Royal as representatives of the class and (ii) granted preliminary approval of the settlement, subject to a fairness hearing which will take place at 9:30 a.m. on October 2, 2008 at the Circuit Court for Howard County, Maryland.

You are being sent this notice because you may be a member of the settlement class. This notice explains the nature of the lawsuit and the terms of the settlement, and informs you of your legal rights and obligations. **IN ORDER TO OBTAIN THE BENEFITS OF THIS SETTLEMENT, YOU MUST COMPLETE AND SUBMIT THE ATTACHED CLAIM FORM WITHIN 45 DAYS AND MEET SEVERAL OTHER REQUIREMENTS. YOU MAY CONTACT THE ATTORNEYS FOR THE CLASS, JON D. PELS AND/OR LAWRENCE J. ANDERSON, AND THEY MAY CONTACT YOU TO EXPLAIN THE SETTLEMENT AND ANSWER ANY QUESTIONS YOU MAY HAVE ABOUT IT.**

NO ADMISSION OF LIABILITY

By settling this lawsuit, Defendant Maple Park is not admitting that it has done anything wrong.

THE PROPOSED SETTLEMENT

MAPLE PARK HAS AGREED TO A RENT ABATEMENT FOR YOU AS DESCRIBED BELOW. COUNSEL FOR PLAINTIFFS BELIEVE THAT THIS PROVIDES CONSIDERABLE VALUE TO THE CLASS.

THE PROPOSED SETTLEMENT WITH MAPLE PARK IS DESCRIBED BELOW. **IN ORDER TO RECEIVE THE BENEFITS OF THIS SETTLEMENT (1) YOU MUST HAVE BECOME A MAPLE PARK TENANT NO EARLIER THAN JANUARY 1, 1984 (2) YOU MUST COMPLETE AND SUBMIT THE ATTACHED CLAIM FORM WITHIN**

45 DAYS AND (3) YOU MUST SIGN AN ADDENDUM TO YOUR LEASE AGREEMENT THAT, AMONG OTHER THINGS, SAYS THAT IN THE EVENT OF A SALE OF THE UNIT, THE PARK MANAGEMENT HAS REVIEWED THE HOME BASED UPON EXTERIOR APPEARANCE ONLY FOR A HOME PURCHASE WITH NO WARRANTIES OR GUARANTEES AS IT RESPECTS THE HOME'S STRUCTURE, FOUNDATION (INCLUDING FOOTERS) STATE OF REPAIR OF HOME'S INTERIOR, LIVABILITY OR COMPLIANCE WITH FEDERAL, STATE OR LOCAL CODES (THIS WILL NOT IMPACT YOUR CHOICE OF TENANCY E.G. ANNUAL OR MONTH TO MONTH).

The attorneys for the class believe that this settlement is fair, reasonable, and in the best interests of the tenants.

For purposes of the settlement, a home with more than one individual as owner is treated as a single class member.

VALUE OF THE SETTLEMENT

The claims against Maple Park are described above. One count allows for the possible recovery of treble damages / attorney's fees. In addition, the class may recover any actual damages which resulted from the alleged actions of Defendant Maple Park in this matter.

Defendant Maple Park denies any wrongdoing and any violation of any federal, state or county regulation or building code. There is no allegation of intentional wrongdoing on behalf of Maple Park. Because the amount of any statutory penalty for treble damages or the like is set by the Court, an individual with a claim under the Consumer Protection Act cannot be assured of any particular amount of recovery in either an individual or a class action. Even if the Court were to find that a violation was committed (which Defendant Maple Park denies), the Court maintains discretion in this area.

BENEFITS TO THE CLASS

The attorneys for the class believe that this settlement with Maple Park is fair, reasonable, and in the best interests of the class. Maple Park has agreed to provide **the members of the class (those who became Maple Park tenants no earlier than January 1, 1984 and whose homes lack footers below the frost-line) with a settlement in the net amount of \$1134.00 per home in rent abatement that will be spread equally over the next twelve rent payments after (and if) the settlement becomes final. Please note that this is the net value of the rent abatement portion of this settlement e.g. this is the amount you will receive as an abatement. Additionally, Maple Park has agreed to pay class counsel \$566.00 per claim for those tenants who qualify for this relief.** This settlement contemplates a partial settlement to be approved by the Court under Rule 2-231. Any award or verdict rendered against any other person or entity in any other related/similar claim or in the *Royal* Action shall be reduced by the amount of the consideration paid by the Released Persons and Insurer or the pro rata share, whichever is greater, in accordance with the Maryland Uniform Contribution Among Joint

Tortfeasors Act, Md. Cts. & Jud. Proc. Code, Ann. Section 3-1401 et seq. The Named Plaintiffs unconditionally promise and agree that any such verdict or award shall be reduced either by the amount of the consideration paid by the Released Persons and Insurer or by the pro rata share, whichever reduction provides any non-settling parties or entities with the greater benefit, whether or not the Released Persons are determined to be Joint Tortfeasors.

The attorneys for the class believe that it is appropriate to trade the speculative possibility of recovering a larger verdict for the prompt and immediate rent abatement that is offered as well as the assignment of Maple Park's claims. Again, the members of the class will also receive from Maple Park an assignment of claims Maple Park may have against others.

RELEASES, INDEMNITIES AND RECEIPT OF ASSIGNMENT OF CLAIMS

EACH CLASS MEMBER WILL GIVE UP ANY RIGHT TO SUE DEFENDANT MAPLE PARK OR ANYONE RELATED TO DEFENDANT MAPLE PARK, AND THEIR EMPLOYEES AND AGENTS, FOR ALL CLAIMS BASED ON THIS LAWSUIT WHICH RELATE TO THE ALLEGED DAMAGES TO EACH CLASS MEMBER AND THEIR PROPERTY. EACH CLASS MEMBER WILL INDEMNIFY AND HOLD MAPLE PARK HARMLESS FOR ANY CLAIMS OTHERS IN THE LAWSUIT MAY BRING AGAINST MAPLE PARK.

The parties hereto agree: (a) that the settlement embodied in this Stipulation is entered into and made in good faith, and (b) that all claims for contribution or indemnification, however denominated, against the Settling Defendants arising under this case in favor of persons, including Non-Settling Defendants, who are asserted to be joint tortfeasors with the Settling Defendants in the Settled Claims and based upon liability on the Settled Claims are extinguished, discharged, satisfied and/or otherwise unenforceable.

The Notice to each of the Settlement Class members shall in form satisfactory to the parties or to the Court provide notice that (1) the claims of all plaintiffs and class members who do not exclude themselves from the Settlement Class ("settlement claimants") will be barred against settling defendants only; (2) in the event that settlement claimants obtain a judgment against one or more nonsettling defendants in a class action or otherwise, and those nonsettling defendants obtain a judgment over, in whole or in part, against settling defendants for contribution or indemnity, then settling claimants will be required to reduce any judgment or proportion thereof obtained from any non-settling defendants by the proportionate amount of such judgment attributable to the allegations in the Complaint, PROVIDED HOWEVER, in no event will the reduction in judgment exceed the amount of the judgment-over against settling defendants. This is intended to obviate the necessity and expense to settling defendants in any action commenced by a plaintiff or settlement class member asserting any claims against any other defendant based upon the Claims asserted in the Class Action of being obliged to appear and defend. HOWEVER, these provisions of this Agreement shall not be construed to require any plaintiff or settlement class member to pay any sums to non-settling defendants or settling defendant on account of any liability of settling defendant. The extent of such plaintiff's or class member's obligation hereunder shall be to permit the appropriate reduction in any judgment.

CORRECT ADDRESS

If this Notice was sent to you at an address which is not current, you should contact the lawyers named below to tell them your past and current addresses:

Jon D. Pels
Lawrence J. Anderson
4833 Rugby Avenue
Fourth Floor
Bethesda, MD 20814
(301) 986-5570
(Attorneys for the class)
www.pallaw.com
jpels@pallaw.com
lja@pallaw.com

and

James K. Archibald
Venable LLP
1800 Mercantile Bank Building
Two Hopkins Plaza
Baltimore, Maryland 21201
(410)244-7525
(Attorney for Maple Park)

If a class member (such as a spouse who signed your lease with you) has died, you should contact the same lawyers and provide them with that information.

FEES

The attorneys for the class will request that the Court award attorney's fees and expenses out of the gross amount of rent abatement offered to class members. The attorneys will not ask for more than 33 1/3 (\$566) of the gross recovery of each class member, which will provide each class member with net rent abatement in the amount of \$1134 spread over twelve equal rent payments.

FAIRNESS HEARING

At 9:00 a.m. on October 2, 2008, a hearing will be held on the fairness of the proposed settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement. The hearing will take place before Judge Lenore R. Gelfman of the Circuit Court for Howard County, Court House, 8360 Court Avenue, Ellicott City, Maryland 21043.

WHAT YOU CAN DO

1. You have the right to exclude yourself from both the class action and the settlement by filing a request for exclusion with the Clerk of the Circuit Court for Howard County, Court House, 8360 Court Avenue, Ellicott City 21043 and serving copies of the request on the lawyers listed above, under "Correct Address." The request for exclusion must be received by the Clerk of the Court on or before September 15, 2008 and refer to the name and number of the case. Unless you plan to bring this claim on an individual basis, there is no benefit to excluding yourself.

2. If you do not wish to exclude yourself, and have no objection to the settlement, you will get the benefits of the settlement if it is approved and if you meet the other requirements noted above.

3. If you do object to the settlement, but do not wish to simply exclude yourself from the class action, you must submit your objection in writing to the Circuit Court for Howard County, Court House, 8360 Court Avenue, Ellicott City, Maryland 21043. The objection must be received by the Clerk of the Court on or before September 15, 2008. You must also serve copies on the attorneys listed under "Correct Address," above, by the same date. Any objection must include the name and number of the case and a statement of the reasons why you believe that the Court should find that the proposed settlement is not in the best interests of the classes. If you do file an objection and wish it to be considered, you must also appear at the hearing before Judge Lenore R. Gelfman on October 2, 2008. Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

IMPORTANT: THE COURT REQUIRES THAT ANY REQUESTS FOR EXCLUSION OR OBJECTIONS BE RECEIVED BY THE CLERK BY SEPTEMBER 1, 2008. IF YOU MAIL A REQUEST FOR EXCLUSION OR OBJECTION, YOU BEAR THE RISK OF ANY PROBLEM WITH THE MAILS.

If the settlement is not approved, the case will proceed as if no settlement has been attempted. Defendant Maple Park will retain the rights to contest whether this case should be maintained as a class action and the merits. There can be no assurance that if the settlement is not approved, the class will recover more than is provided in this settlement, or indeed anything.

This description of the case is general and does not cover all of the issues and proceedings thus far. **In order to see the complete file, you may contact the attorneys for the class, Jon D. Pels and Lawrence J. Anderson, at the address and phone number noted above** or you may visit the office of the Circuit Court for Howard, Court House, 8360 Court avenue, Ellicott City, Maryland 21043. The Clerk will make the files relating to this lawsuit available to you for inspection and copying at your own expense.

WHAT YOU SHOULD DO NOW

IN ORDER TO OBTAIN THE BENEFITS OF THIS SETTLEMENT YOU MUST COMPLETE AND SUBMIT THE ATTACHED CLAIM FORM WITHIN 60 DAYS. You may consult at no expense to you with the attorneys for the class, Jon D. Pels and Lawrence J. Anderson, at the address and phone number noted above. They also will be in contact with you to see if you have any questions about it. You may also consult with other attorneys (at your expense), exclude yourself from the case, or file objections, as described above. You also have the right to file an appearance in the case if you wish.

This notice is only a summary of the terms of the settlement. You may inspect the entire settlement agreement.

IF YOU ARE A DEBTOR IN A CHAPTER 13 OR CHAPTER 7 BANKRUPTCY PROCEEDING THAT WAS PENDING ON OR AFTER _____, SEND A COPY OF THIS NOTICE TO YOUR BANKRUPTCY ATTORNEY. DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR TO THE JUDGE. They are not permitted to answer your questions.

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