

Civil District Court for the Parish of Orleans  
STATE OF LOUISIANA

No: 2001 - 20605

Division/Section: D-12

CLABORNE, JANICE ET AL

versus

THE HOUSING AUTHORITY OF NEW ORLEANS ET AL

Date Case Filed: 12/14/2001

NOTICE OF SIGNING OF JUDGMENT

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In accordance with Article 1913 C.C.P., you are hereby notified that Judgment  
in the above entitled and numbered cause was signed on June 18, 2020

New Orleans, Louisiana  
June 18, 2020

  
MINUTE CLERK

**CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS**

**STATE OF LOUISIANA**

**NO.: 2001-20605**

**DIVISION: D**

**JANICE CLABORNE, ET AL**

**VERSUS**

**THE HOUSING AUTHORITY OF NEW ORLEANS**

**FILED:** \_\_\_\_\_

\_\_\_\_\_  
**DEPUTY CLERK**

**FINAL ORDER AND JUDGMENT**  
**APPROVING CLASS ACTION PARTIAL SETTLEMENT**

This matter came for hearing before this Honorable Court on May 27, 2020<sup>1</sup> for final approval of the proposed class action partial settlement (“Settlement”), entered into between plaintiffs Janice Claborne, Michelle George, Shantale Travis, Demetris Ramee, Monya Cheneau, Almarita Bush, Lisa Henderson, Rhonda Parquette, and Clementine Williams (collectively, with all members of the previously-certified Partial Settlement Class (“Plaintiffs”) and Canal Indemnity Company (“Canal”), Jefferson Insurance Company of New York (“Jefferson”), Odyssey Re (London) Limited, f/k/a Sphere Drake Insurance, PLC (“Odyssey Re”), and Scottsdale Insurance Company (“Scottsdale”) (collectively, the “Settling Insurers”) pursuant to the Stipulation of Class Action Partial Settlement and Release (the “Agreement”) (previously filed with the Court as an exhibit to the Motion for Preliminary Approval and attached hereto as **Ex. A**).<sup>2</sup>

After fully considering: (a) the Agreement; (b) the Preliminary Approval Order for the Agreement and all exhibits thereto entered on October 17, 2019;<sup>3</sup> (c) the Amended Preliminary Approval Order and all exhibits thereto entered on January 16, 2020; (d) the testimony of Craig Freeman; (e) the affidavit of Mickey Landry; (f) the affidavits of the Class Representatives; and (g) all other evidence presented as well as the entire record of this proceeding; the

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<sup>1</sup> Present for the “Final Approval Hearing” were counsel for: Plaintiffs (Darlene M. Jacobs, Terrill W. Boykin, Thomas E. Loehn, Kriste T. Utley, and James Watkins); the Housing Authority of New Orleans (“HANO”) (Wayne J. Lee and Heather Lonian); Scottsdale (Mark L. Hanover and Glenn B. Adams); Penn-America Insurance Company (“Penn-America”) (David Bordelon); Canal (Elizabeth O. Clinton); Jefferson (Julie Dietz); Odyssey Re (Daniel M. Redmann); Guste Homes Resident Management Corporation (“Guste Homes”) (Kim Boyle, Brandon Davis, Dennis Phayer, Warren Horn, Ike Spears, and Diedre Pierce Kelly); and B.W. Cooper Resident Management Corporation (“B.W. Cooper”) (Dennis Phayer); and Special Master for Administration of Partial Settlement Fund (Bruce C. Dean).

<sup>2</sup> Unless defined herein, all capitalized terms in this Order shall have the respective meanings ascribed to the same terms in the Agreement.

<sup>3</sup> The Court held the Preliminary Approval Hearing on September 27, 2019.

representations, argument, and recommendation of counsel; the requirements of law; and for the reasons assigned orally on the record at the Final Approval Hearing:<sup>4</sup>

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. Pursuant to Article 594 of the Louisiana Code of Civil Procedure, the Court finally approves the Agreement as being fair, reasonable, adequate, and in the best interests of the Partial Settlement Class (as defined in the Agreement and set forth below):

The Partial Settlement Class shall consist of all members of the class set forth in the Court's June 30, 2014 order captioned "Reasons for Judgment" (the "Litigation Class") and, to the extent not included in the Litigation Class all other leaseholders and other permanent residents of (1) any facility owned, controlled, managed, or operated by THE HOUSING AUTHORITY OF NEW ORLEANS or (2) any facility controlled, managed, or operated by the Guste Homes Resident Management Corporation or B.W. Cooper Resident Management Corporation including, without limitation, all leaseholders and other permanent residents of the public housing facilities commonly known as the Guste Homes, B.W. Cooper Homes, and Calliope Projects, in all cases from January 1, 1998 to October 17, 2019, the date of preliminary approval of the Partial Settlement Class [as defined in the Agreement].

2. The Partial Settlement Class is hereby finally certified, solely for purposes of settlement, pursuant to Article 591 of the Louisiana Code of Civil Procedure.

3. The Agreement was arrived at as a result of arms-length negotiations conducted in good faith by experienced attorneys familiar with the legal and factual issues of this case and thus is supported by Plaintiffs and Class Counsel. The Court approves this Settlement in light of the complexity, expense, and duration of litigation, and the risks involved in establishing liability and damages and in maintaining the class action through trial and appeal.

4. The Court finds that all applicable due process requirements, including those set forth in Article 594(A)(2) and (B) of the Louisiana Code of Civil Procedure, have been satisfied through the Settlement Notices, the Notice Plan, the HANO Mold Website, and the Final Approval Hearing. The Court previously found, and again finds, that the Settlement Notices, Notice Plan, and the HANO Mold Website are the best practicable method under the circumstances for providing notice to the Partial Settlement Class members, and that, through such channels, these individuals were notified of (a) the terms of the Settlement; (b) the date of the Final Approval Hearing; (c) the option and procedure to object to the Settlement; and (d) the option and procedure to participate in the Settlement. Further, any objectors to the approval of

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<sup>4</sup> A copy of the Final Approval Hearing transcript is attached hereto as **Ex. B**.

the Agreement were given the opportunity to be heard at the Final Approval Hearing, and, other than HANO and Guste Homes, none appeared.

5. For settlement purposes, the preliminary appointment of Plaintiffs as Partial Settlement Class Representatives and the preliminary appointment of class counsel as Class Counsel to the Partial Settlement Class are hereby confirmed.

6. No potential claimant has come forward to request to be excluded or to opt-out of the Settlement. Therefore, all Partial Settlement Class members are bound by all of the terms and conditions of the Settlement Agreement and all provisions of the Agreement will be given full force and effect (*see* Ex. A).

7. In its written memorandum and at the Final Approval Hearing, HANO took no position as to whether the Settlement is fair, reasonable, or adequate for the Partial Settlement Class. Rather, HANO raised objections to certain provisions within the Agreement, including, but not limited to, the Bar Order, which, HANO alleged, affects HANO's rights against the Settling Insurers. HANO and the Resident Management Corporations ("RMCs") had raised these same objections to preliminary approval of the Settlement, and the Court denied the objections at the Preliminary Approval Hearing. Guste Homes again joined HANO's objections at the Final Approval Hearing. For the reasons articulated orally at the Final Approval Hearing (*see* Ex. B), the Court also overrules the objections of HANO and Guste Homes to final approval of the Settlement.

8 The "Settlement Sums" shall be paid, within the time required by the Agreement, by the following parties in the following amounts: Canal (\$1,500,000); Scottsdale (\$2,000,000); Jefferson (\$250,000); and Odyssey Re (\$10,000). The Court has previously determined that the Settlement Account shall constitute a "qualified settlement fund" for federal tax purposes pursuant to Treas. Reg. § 1.468B-1.

9. The Court orders that the relief provided through the Agreement is enforceable and binding on the Partial Settlement Class members and Partial Class Releasing Parties and that any claim released in the Agreement against any Settling Insurer or Released Party is **HEREBY DISMISSED WITH PREJUDICE**. Plaintiffs and the Settling Insurers are to bear their own costs, except as otherwise provided in the Agreement.

10. All members of the Partial Settlement Class and the Litigation Class retain the Reserved Claims against HANO, Guste Homes, B.W. Cooper, Penn-America, and other persons and entities, as reserved unto them pursuant to Section (V)(C) of the Agreement.

11. By operation of this **JUDGMENT**—and regardless of whether they have signed and delivered an individual release—the Partial Settlement Class members shall and are hereby deemed to release all Settled Claims against any Settling Insurer or Released Party, as set forth in the Agreement. By operation of this **JUDGMENT**, the Partial Settlement Class members are forever barred and enjoined from seeking to establish liability based in whole or in part on any of the Settled Claims and are barred and enjoined from asserting any known or unknown, suspected or unsuspected, contingent or non-contingent Settled Claims, without regard to the subsequent discovery or existence of different or additional facts.

12. The Court orders that Section VI of the Agreement (“Bar Order and Set Off”) will be given full force and effect, and the Court hereby permanently bars, restrains, and enjoins the Non-Settling Parties, and any person or entity acting on their behalf, from making, commencing, prosecuting, asserting, or causing another to so assert, either derivatively or on behalf of themselves, Barred Claims against the Settling Insurers as provided in Section VI(A) of the Agreement. The Bar Order shall be subject to the set off provision contained within Section VI(B) of the Agreement.

13. Without affecting the finality of this Order, the Court shall retain full jurisdiction and authority over the subject matter of this action and all Non-Settling Parties for all purposes. The Court shall also retain jurisdiction and authority over the Partial Settlement Class, the Settling Insurers, the Class Representatives, the Non-Settling Parties, and the Released Parties to the extent necessary to: (a) supervise the implementation, enforcement, construction, and interpretation of the Agreement, the Notice Plan, the Escrow Agreement of April 9, 2019, and this Judgment; (b) supervise the development, implementation, enforcement, construction, and interpretation of an allocation plan<sup>5</sup> for the distribution of the Settlement Fund by the Special Master; (c) supervise the distribution of the Settlement Fund by the Special Master; and (d) authorize the award of fees and costs to the Plaintiffs’ Legal Committee.

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<sup>5</sup> Any allocation plan shall be considered separate from this Judgment. Reversal or modification on appeal of any allocation plan or any future orders regarding any allocation plan shall not affect the finality of this Judgment as it relates to the Settling Insurers and the Releasing Parties and shall not constitute grounds for cancellation or termination of the Settlement.

14. Notwithstanding the Court's retention of jurisdiction, under no circumstances will the Settling Insurers be required to fund any additional monies with regard to this litigation in excess of the amount of the Settlement Fund set forth in the Agreement.

15. In accordance with Article 594(E) of the Louisiana Code of Civil Procedure, the Court orders that the distribution of the Settlement Fund will be without the necessity of prior qualification of representatives of minors, interdicts, successions, or other incompetents or absentees.

16. The application for fees, costs, and expenses submitted by Plaintiffs' Legal Committee and any orders entered regarding that application also shall be considered separate from this Judgment. Reversal or modification on appeal of any orders regarding the above shall not affect the finality of this Judgment as it relates to the Settling Insurers and the Releasing Parties and/or constitute grounds for cancellation or termination of the Settlement.

17. Neither the Agreement nor the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Settled Claim, or of any wrongdoing or liability of the Settling Insurers; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Settling Insurers in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Settling Insurers have denied and continue to deny all of the claims asserted by Plaintiffs.

18. The Class Representatives, on their own behalf and on behalf of the Partial Settlement Class, and the Settling Insurers each shall have the right to terminate and opt out of the Agreement in their sole discretion if this Final Judgment Order is modified in any material aspect by any appellate or other court (as provided for in Sect. XII of the Agreement).

The Court hereby designates this Final Order and Judgment as a final judgment pursuant to Article 1915(B)(1) of the Louisiana Code of Civil Procedure based upon the finding that there is no just reason for delay.

**FINAL JUDGMENT is hereby ENTERED** directing the Partial Settlement Class members, Plaintiffs' Legal Committee, and the Settling Insurers to comply and perform in accordance with the terms of the Agreement, and **DISMISSING WITH PREJUDICE** all claims asserted or assertable against the Settling Insurers as set forth in the Agreement.

NO.: 2001-20605

Judgment on Final Approval of Partial Settlement

Thus, done and signed at New Orleans, Louisiana on this 18<sup>th</sup> day of June, 2020.

  
A handwritten signature in black ink, appearing to read 'N. Ervin-Knott', is written over a horizontal line.

JUDGE NAKISHA ERVIN-KNOTT



A blue ink signature is written over a rectangular stamp. The stamp contains the text: 'A TRUE COPY', 'DEPUTY CLERK CIVIL DISTRICT COURT', 'PARISH OF ORLEANS', and 'NEW ORLEANS'.