

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

DENNIS COOK, ROBERT HABERMAN,
and WILLIAM NUESSELEIN, individually and
as a representatives of the classes,

Plaintiffs,

v.

RBS CITIZENS, N.A., d/b/a CITIZENS
BANK and CITIZENS BANK OF
PENNSYLVANIA,

Defendant.

Case No. 1:11-cv-00268

JAMES EDWARD RICHARDS, individually
and on behalf of all others similarly situated,

Plaintiff,

v.

RBS CITIZENS, N.A., d/b/a CITIZENS
BANK,

Defendant.

Case No. 1:12-cv-00239

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

1. This Class Action Settlement Agreement and Release (“Agreement” or “Settlement Agreement” or “Settlement”) is entered into by Dennis Cook, Robert Haberman, William Nuesslein, and James Edward Richards (“Plaintiffs”), individually and on behalf of all Settlement Class Members as defined below, and Defendant Citizens Bank, N.A. d/b/a Citizens Bank and Charter One f/k/a RBS Citizens, N.A., and Citizens Bank of Pennsylvania (“RBS” or “Citizens” or “Defendant”), subject to the approval of the Court.

DEFINITIONS

2. As used in this Settlement Agreement, the following terms shall have the

following meanings:

2.1. “Actions” means the above-captioned lawsuits, *i.e.*, the Cook Action and the Richards Action.

2.2. “Agreement” or “Settlement Agreement” or “Settlement” means this Class Action Settlement Agreement and Release.

2.3. “Available Credit” means the full credit limit on a Class Member's HELOC, or the Class Member's outstanding principal balance during any period(s) that a Class Member's HELOC is suspended such that the Class Member is unable to draw funds on the HELOC.

2.4. “CAFA Notice” means the notice to be sent by RBS to appropriate officials pursuant to the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) (“CAFA”).

2.5. “Claim Deadline” means the date sixty (60) days after the Class Notice Date.

2.6. “Claim Form” means the Claim Form attached hereto as **Exhibit A-1** for Class 1 and **Exhibit A-2** for Class 2.

2.7. “Claims Administrator” means a vendor agreed to by the Parties and approved by the Court.

2.8. “Class 1” means those persons who fall within the following class definition:

All persons whose mortgage loan or home equity line of credit was serviced by RBS Citizens, N.A, (“RBS”) at the time RBS changed its flood insurance requirements at the end of 2009, and were required by RBS to increase their flood insurance coverage to the lesser of \$250,000 or the replacement cost value of their property on or after October 1, 2009, and prior to May 29, 2014.

2.9. “Class 2” means those persons who fall within the following class definition:

All persons who originated a home equity line of credit for less than \$250,000 with RBS Citizens, N.A. (“RBS”) on or after January 1, 2010 and prior to May 29, 2014, and were required by RBS to obtain flood insurance coverage equal to the lesser of \$250,000 or the replacement cost value of their property on or after January 1, 2010 and prior to May 29, 2014.

2.10. “Class Counsel” means Berger & Montague, P.C., Nichols Kaster, PLLP, Taus, Cebulash & Landau, LLP, and Kabateck Brown Kellner, LLP.

2.11. “Class Data” means the data and information that has been or will be produced by RBS in the Actions relating to Class Members and their mortgage loans or HELOCs with RBS.

2.12. “Class Notice” means the notice of settlement approved by the Court and provided to Class Members, in substantially the form attached hereto as **Exhibit B-1** for Class 1 and **Exhibit B-2** for Class 2.

2.13. “Class Notice Date” means the date that the Class Notice is mailed to Settlement Class Members by the Claims Administrator.

2.14. “Class Funds” means the funds in the Settlement Fund that are available for distribution to Eligible Settlement Class Members, after the payment of all amounts approved by the Court in its Final Approval Order for Class Representative service awards, Class Counsel’s attorneys’ fees and expenses, and the fees and expenses of the Claims Administrator.

2.15. “Class Period” means the period from October 1, 2009 to May 29, 2014 for Class 1, and from January 1, 2010 to May 29, 2014 for Class 2.

2.16. “Co-Lead Class Counsel” means Nichols Kaster, PLLP and Berger & Montague, P.C.

2.17. “Cook Action” means Case No. 1:11-cv-00268, filed in the United States District Court for the District of Rhode Island on July 5, 2011, as amended.

2.18. “Effective Date” means the date that this Settlement Agreement becomes effective, as provided in Paragraph 11.1.

2.19. “Eligible Settlement Class Member” shall mean a Settlement Class Member who is entitled to receive a payment under Paragraph 5.10 and/or 5.11.

2.20. “Excess Coverage Damages” means:

- a. the net premiums that a member of Class 1 incurred for flood insurance coverage (whether such coverage was lender-placed or was purchased by such Settlement Class Member on his or her own) in excess of the Minimum Flood Coverage Amount, after receiving a Flood Insurance Notice from RBS during the Class Period; and
- b. the net premiums that a member of Class 2 incurred for flood insurance coverage (whether such coverage was lender-placed or was purchased by such Settlement Class Member on his or her own) in excess of the Minimum Flood Coverage Amount, in connection with their HELOC with RBS during the Class Period.

2.21. “Final Approval Hearing” means the hearing to be requested by Plaintiffs and conducted by the Court, following appropriate notice to the Settlement Class and an opportunity for Settlement Class Members to exclude themselves from the Settlement Class or object to the Settlement, at which time Plaintiffs will request the Court to finally approve the fairness, reasonableness, and adequacy of the Settlement Agreement and to enter a Final Approval Order.

2.22. “Final Approval Motion” means Plaintiffs’ Motion for Final Approval of Class Action Settlement.

2.23. “Flood Insurance Notice” shall mean a letter from RBS requesting that a Settlement Class Member obtain flood insurance or additional flood insurance for Secured Property.

2.24. “HELOC” means home equity line of credit.

2.25. “LPFI” shall mean lender-placed flood insurance, *i.e.*, any flood insurance purchased for a Class Member by RBS.

2.26. “Minimum Flood Coverage Amount” means the lesser of the amounts specified in Paragraphs 4.1(a)-(c).

2.27. “Opt-Out Deadline” means the date sixty (60) days after the Class Notice Date.

2.28. “Opt-Out Request” means a written statement from a Settlement Class Member requesting exclusion from the Settlement, in accordance with Paragraph 9.1.

2.29. “Parties” means the Named Plaintiffs (on behalf of themselves and all Settlement Class Members who do not become opt outs) and RBS.

2.30. “Plaintiffs” or “Named Plaintiffs” or “Class Representatives” means Dennis Cook, Robert Haberman, William Nuesslein, and James Edward Richards.

2.31. “Plaintiffs’ Damages Expert” means Arthur Olsen.

2.32. “Preliminary Approval Date” means the date of the Court’s Preliminary Approval Order.

2.33. “Preliminary Approval Motion” means Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, which shall include a copy of this Settlement Agreement.

2.34. “Preliminary Approval Order” means the Court’s Order preliminarily approving this Settlement Agreement, certifying the Settlement Classes, setting a date for the Final Approval Hearing, and authorizing notice of the Settlement to be sent to Settlement Class Members.

2.35. “RBS” or “Citizens” or “Defendant” means Citizens Bank, N.A. d/b/a Citizens Bank and Charter One f/k/a RBS Citizens, N.A., and Citizens Bank of Pennsylvania.

2.36. “Released Claims” means those claims released as stated in Paragraph 14.1 of this Agreement.

2.37. “Released Parties” means RBS and the other beneficiaries of the release contained in Paragraph 14.1 of this Agreement.

2.38. “Richards Action” means Case No. 1:12-cv-00239, filed in the United States District Court for the District of Rhode Island on March 30, 2012.

2.39. “Secured Property” means property securing a mortgage loan or HELOC that is serviced by RBS.

2.40. “Senior Lien” shall mean any mortgage loan or line of credit secured by a Class Member’s Property with priority over the Class Member’s mortgage loan or HELOC serviced by RBS. This term shall include both Senior Liens held by RBS and Senior Liens held by other lenders.

2.41. “Settlement Classes” means Class 1 and Class 2.

2.42. “Settlement Class Member” means a member of Class 1 and/or Class 2.

2.43. “Settlement Fund” means the total sum of One Million Five Hundred Thousand Dollars (\$1,500,000) deposited by RBS pursuant to Paragraph 5.1 of the Settlement, plus any accrued interest thereon after deposit.

2.44. “Settlement Payment” means any payment that an Eligible Class Member is entitled to receive under Paragraph 5.10 and/or 5.11 of this Settlement Agreement.

RECITALS

3.1. Plaintiff Dennis Cook formerly had a HELOC with RBS, and was required to purchase flood insurance by RBS. On July 5, 2011, Cook filed the Cook Action on behalf of himself and other similarly situated RBS customers who were required to purchase flood insurance by RBS. At the direction of the Court (*see* Text Order dated November 22, 2011), Cook subsequently filed a First Amended Complaint on December 6, 2011 (ECF No. 19). Thereafter, Cook filed a Second Amended Complaint on March 9, 2012, adding Robert Haberman as a second Named Plaintiff (ECF No. 32), and contemporaneously with the filing of this Settlement Agreement, will file a Third Amended Complaint (“TAC”) adding William Nuesslein as a third Named Plaintiff. In their TAC, the Plaintiffs in the Cook Action allege (among other things) that RBS required them and other HELOC borrowers to maintain excessive amounts of flood insurance coverage for their property, and assert claims against RBS for violation of the Truth in Lending Act (“TILA”), 15 U.S.C. § 1601, *et seq.*; breach of contract and breach of the implied covenant of good faith and fair dealing; violation of the New York Deceptive Practices Act (“NYDPA”), N.Y. Gen. Bus. Law § 349, *et seq.*; and violation of the Connecticut Unfair Trade Practices Act (“CUTPA”), Conn. Gen. Stat. § 42-110a, *et seq.*

3.2. Plaintiff James Edward Richards has a mortgage loan with RBS, and was required to purchase flood insurance by RBS. On March 30, 2012, Richards filed the Richards Action on behalf of himself and other similarly situated customers of RBS who were required to purchase flood insurance by RBS. In his Complaint, Richards alleges (among other things) that RBS required him and other mortgage loan borrowers to maintain excessive amounts of flood

insurance coverage for their property, and asserts claims against RBS for unjust enrichment, breach of contract, breach of the implied covenant of good faith and fair dealing, breach of fiduciary duty, conversion, and violation of the Ohio Consumer Sales Practices Act (“OCSPA”).

3.3. On October 18, 2012, the Court issued an order consolidating the Richards Action and the Cook Action for pretrial purposes, with the *Cook* action designated as the lead case. *See* ECF No. 43.

3.4. Class Counsel have thoroughly investigated the facts and law relating to Plaintiffs’ claims and RBS’s defenses, and have undertaken extensive discovery in the Actions. Among other things, RBS has responded to written discovery requests from Plaintiffs, produced more than 40,000 pages of documents, and provided a significant amount of Class Data to Plaintiffs, including both aggregate Class Data and an extensive set of loan-level Class Data relating to Class 1 (which will be supplemented for Class 2 in accordance with Paragraph 5.7 of this Settlement Agreement).

3.5. Class Counsel have reviewed the documents, information, and Class Data produced by RBS, and also retained a damages expert, Arthur Olsen, to evaluate and analyze the Class Data. In addition, Class Counsel were able to draw on their extensive experience litigating other cases involving lender-placed insurance, including LPFI.

3.6. On November 7, 2013, the Parties participated in an all-day settlement conference at the law offices of Hinckley Allen & Snyder LLP in Providence, Rhode Island. Following this settlement conference, the Parties continued their settlement negotiations, and scheduled a mediation with Retired Judge Wayne Andersen of JAMS. Shortly before this mediation was scheduled to take place, the Parties reached agreement on the key terms of a settlement, and subsequently proceeded to negotiate this Settlement Agreement. At all times, the Parties have

negotiated vigorously with each other and at arm's length.

3.7. Based upon Class Counsel's investigation and legal evaluation, and taking into account the contested legal and factual issues involved, including their assessment of the uncertainties of litigation and the relative benefits conferred upon the Settlement Class Members pursuant to this Agreement, Plaintiffs and Class Counsel have concluded that this Agreement with RBS on the terms set forth herein is fair, reasonable and adequate, and in the best interests of Plaintiffs and the Settlement Class Members.

3.8. RBS denies the allegations in the operative Complaints in the Actions. RBS asserts that its flood insurance procedures are not unlawful or improper in any manner, and denies that either the Named Plaintiffs or the Settlement Class Members suffered any injury as a result of RBS's conduct. By entering into this Settlement Agreement, RBS does not admit any wrongdoing, and this Settlement Agreement shall not constitute an admission of liability by RBS.

3.9. In order to effectuate this Settlement, RBS stipulates to the certification of the Settlement Classes pursuant to FED. R. CIV. P. 23(b)(3) as defined above in Paragraphs 2.8 and 2.9. By so stipulating, RBS shall not be precluded from challenging class certification in further proceedings in these Actions or in any other action if this Settlement is not finally approved. If the Settlement is not finally approved by the Court, the certification of the Settlement Classes will be void. No agreements made by or entered into by RBS in connection with this Settlement may be used by Plaintiffs, any Settlement Class Member, or any other person to establish any of the elements of class certification in any litigated certification proceedings, whether in the Actions or any other judicial or regulatory proceeding.

3.10. NOW THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN the undersigned Parties, that these Actions shall be settled, subject to the approval of the Court, pursuant to the terms and conditions set forth herein.

PROSPECTIVE RELIEF

4.1. Option to Reduce Flood Insurance Coverage Requirements. Within 30 days of the Effective Date, RBS shall send a letter ("Coverage Letter"), in the form attached as **Exhibit C** hereto, to each Settlement Class Member with an active account whose Secured Property is in a special flood hazard area ("SFHA"), which provides such Settlement Class Members the option to reduce their flood insurance coverage requirement to the "Minimum Flood Coverage Amount," which is the lesser of the following amounts (provided that such amounts are sufficient to satisfy federal requirements and any applicable investor requirements):

- a. The replacement cost value ("RCV") of the structures on their property (using the Settlement Class Member's hazard insurance coverage, when RCV is not available);
- b. The maximum amount of flood insurance coverage available under the National Flood Insurance Program (currently \$250,000); or
- c. The amount of the Settlement Class Member's unpaid principal balance on a mortgage loan or Available Credit on a HELOC, plus any Senior Liens.

Settlement Class Members may exercise this option by timely submitting a flood coverage election form (the "Flood Coverage Election Form") that shall be included with the Coverage Letter before the deadline in Paragraph 4.2. As a condition of exercising this option, RBS will require Settlement Class Members to provide the documents and information set forth in the Flood Coverage Election Form.

4.2 Time Period for Submitting the Flood Coverage Election Form. Settlement Class Members must submit their valid and complete Flood Coverage Election Form within 120 days of the date of the Coverage Letter to qualify for reducing their flood insurance requirements to the Minimum Flood Coverage Amount.

4.3 Method for Returning the Flood Coverage Election Form. Settlement Class Members must return the completed Flood Insurance Election Forms either (a) by mail to RBS at the address provided on the Flood Insurance Election Form; or (b) by fax to the fax number provided on the Flood Insurance Election Form. The postmark date of the mailing envelope or fax transmission shall be the exclusive means used to determine whether a Flood Coverage Election Form has been timely submitted. The Flood Coverage Election Form shall be valid and complete only if all information requested on it has been provided; all required signatures are present on the document; and all documentation required by the instructions on the Flood Coverage Election Form accompanies that form. RBS has no obligation to honor Election Forms that are untimely or incomplete.

4.4 Remedy to address incomplete Flood Coverage Election Forms. If any Flood Insurance Election Forms are deemed invalid for any reason (*e.g.*, because they are defective or incomplete in any way), then RBS shall promptly advise the Claims Administrator and/or Class Counsel (at Class Counsel's election) so that the Claims Administrator and/or Class Counsel may follow-up with the Settlement Class Member who submitted such Election Form so they have an opportunity to cure any deficiency. Any defective Election Form may be cured and shall be accepted by RBS so long as the defect is resolved within thirty (30) days after the deadline for submitting Election Forms in Paragraph 4.2 above.

4.5. To the extent that Settlement Class Members exercise their option to maintain flood insurance coverage at the Minimum Flood Coverage Amount, RBS shall honor such election for as long as RBS services their mortgage loan or HELOC, provided that these amounts are sufficient to satisfy federal requirements and investor requirements.

4.6. Value of Prospective Relief. The Parties agree that the value of the prospective relief set forth in this Agreement is substantial and that it is a significant part of the valuable consideration for the Parties' Agreement.

4.7. Conflicts With Regulatory Requirements. If there is a conflict between any provision of this Agreement and any statute, rule, regulation, or formal or informal regulatory guidance of a bank regulator with regulatory jurisdiction over RBS (collectively, "Regulatory Requirement") applicable now or in the future to RBS's practices with respect to flood insurance, the Regulatory Requirement shall control, and the specific portion of this Agreement in conflict with such Regulatory Requirement shall be of no further force or effect. If this occurs, the remainder of this Settlement Agreement will remain in full force and effect. The Parties state that they are presently unaware of any such conflict.

MONETARY RELIEF

5.1 Settlement Fund. Within five (5) business days of the Effective Date, RBS shall deposit One Million Five Hundred Thousand Dollars (\$1,500,000) into an interest-bearing Settlement Fund, which shall be established by the Claims Administrator with a federally-chartered national bank selected by Co-Lead Class Counsel, other than RBS, in advance of the deadline for this deposit. All monetary relief to Settlement Class Members, as well as Class Counsel's attorneys' fees, all costs and expenses (including expert fees, costs of settlement administration, and litigation costs), and any service awards to the Named Plaintiffs shall be paid

from the Settlement Fund, and shall be distributed as set forth in this Agreement, subject to the approval of the Court. RBS's total monetary obligation to settle this action is limited to its payment of One Million Five Hundred Thousand Dollars (\$1,500,000) to the Settlement Fund.

5.2 Opportunity to Submit a Claim for Monetary Relief. Settlement Class Members may obtain monetary relief from the Settlement Fund by timely submitting a valid and complete Claim Form to the Claims Administrator on or before the Claim Deadline. A Claim Form shall be valid and complete only if all information requested on it has been provided, and all required signatures are present on the document.

5.3 Remedy to Address Defective Claims. If any submitted Claim Forms are deemed invalid for any reason (*e.g.*, because they are defective or incomplete in any way), the Claims Administrator shall promptly advise Co-Lead Class Counsel so that Co-Lead Class Counsel may follow-up with the Settlement Class Member who submitted such Claim Form in order to cure any deficiency. Any defective Claim Form may be cured and shall be accepted by the Claims Administrator so long as the defect is resolved within thirty (30) days after the Claim Deadline.

5.4 Method for Returning Claim Forms. Settlement Class Members shall have the opportunity to submit Claim Forms to the Claims Administrator by mail, facsimile, or email.

5.5 Time Period for Submitting Claim Forms. Settlement Class Members may submit their Claim Form to the Claims Administrator at any time on or before the Claim Deadline.

5.6 Only One Claim Form Required. Settlement Class Members shall only be required to submit one Claim Form regardless of how many flood insurance cycle letters they received, how many times they were charged for LPFI by RBS, or how many loans or HELOCs they had with RBS.

5.7 RBS Supplementation of Class Data for Settlement Class Members in Class 2.

For those Settlement Class Members in Class 2 who timely submit a valid and complete Claim Form, RBS will provide Class Counsel the following information, subject to the Protective Order entered in the Actions: account number, date of origination, original credit line amount, and flood zone category. RBS will provide this data to Class Counsel within twenty-one (21) days of receiving the complete list of all Settlement Class Members in Class 2 who timely submitted a valid claim.

5.8 Amount of Monetary Relief. Each Settlement Class Member who timely returns a valid Claim Form (“Eligible Claimant”) shall be entitled to a *pro rata* share of the Class Funds in the Settlement Fund, in proportion to such Eligible Claimant’s estimated Excess Coverage Damages, as determined by Plaintiffs’ Damages Expert based on the Class Data provided by RBS and the information provided by the Eligible Claimant on the Claim Form.

5.9 Calculation of Claimant Payment Amounts. No more than thirty-five (35) days after the Claim Deadline, Plaintiffs’ Damages Expert shall calculate the estimated Excess Coverage Damages for each Eligible Claimant based on the Class Data and the Claim Forms that are returned. Within fifteen (15) business days of the Court’s Final Approval Order, Plaintiffs’ Damages Expert also shall determine the amount to be paid to each Eligible Claimant, up to the amount of their Excess Coverage Damages, based upon their *pro rata* share of the Class Funds (the “Claimant Payment Amount”).

5.10. Distribution of Claimant Payment Amounts to Eligible Claimants. Within thirty (30) days after RBS makes the deposit required by Paragraph 5.1 of this Agreement, the Claims Administrator shall distribute the Class Funds to Eligible Claimants in accordance with their respective Claimant Payment Amounts. All such payments to Eligible Claimants shall be

distributed in the form of a check that shall be sent via first class mail in a distinctive envelope stating, on the outside in large bold letters: **“Settlement Communication Pursuant to Class Action Settlement Approved by the Court.”** For purposes of this mailing, the Claims Administrator shall use the addresses provided by Eligible Claimants on their Claim Forms, subject to appropriate updating by the Claims Administrator prior to mailing, which shall consist of checking each address against the United States Post Office National Change of Address (“NCOA”) Database.

5.11. Residual Distribution. No portion of the Class Funds shall revert to RBS at any time. Rather, in the event that there are Class Funds remaining in the Settlement Fund after distribution of the Claimant Payment Amounts, the remaining funds shall be distributed by the Claims Administrator equally among all Settlement Class Member accounts (net of any expenses associated with such distribution), regardless of whether particular Settlement Class Members submitted a timely and valid Claim Form, provided that the amount of remaining Class Funds equals or exceeds Twenty Five Thousand Dollars (\$25,000). Any such residual payments to Settlement Class Members shall be distributed in the form of a check that shall be sent via first class mail in a distinctive envelope stating, on the outside in large bold letters: **“Settlement Communication Pursuant to Class Action Settlement Approved by the Court.”** For purposes of this mailing, the Claims Administrator shall use the addresses that were used to send the Class Notice, subject to appropriate updating based on:

- a. Claim Forms received from Settlement Class Members;
- b. The NCOA Database;
- c. Forwarding information received from the United States Post Office; and
- d. Any other updated address information supplied to the Claims Administrator by Settlement Class Members or Class Counsel.

In the event that the amount of Class Funds remaining is less than Twenty Five Thousand Dollars (\$25,000) but greater than \$0, such funds shall be distributed pursuant to Paragraph 5.16 below.

5.12. Re-Mailing of Returned Settlement Payments. Any Settlement Payments distributed pursuant to Paragraph 5.10 and/or Paragraph 5.11 that are returned as non-deliverable with a forwarding address shall promptly be re-mailed by the Claims Administrator to such forwarding address. To the extent that any such Settlement Payments are returned as non-deliverable without a forwarding address, the Claims Administrator shall conduct a skip trace to locate valid address information for the intended recipients of such Settlement Payments, and shall promptly re-mail the Settlement Payment if new address information is identified.

5.13. Time Period to for Cashing Checks. All checks that are distributed to Settlement Class Members pursuant to Paragraph 5.10 and/or Paragraph 5.11 shall be negotiable for one hundred twenty (120) days.

5.14. Final Accounting. No later than thirty (30) days after the period for cashing all checks expires, the Claims Administrator shall provide a final accounting to the Parties, and at any time prior to such final accounting, the Claims Administrator shall provide interim reports or declarations to any Party upon request at any time, which may be filed with the Court.

5.15. Total Monetary Obligation. The maximum aggregate amount RBS shall be obligated to pay under this Agreement, if it gains Final Approval, is limited to One Million Five Hundred Thousand Dollars (\$1,500,000). In the event a court determines or otherwise issues an order or opinion that there should be any money paid from the Settlement Fund or by RBS other than as contemplated by this Agreement, RBS has the right to terminate this Agreement, in its sole discretion.

5.16. Cy Pres. Any Class Funds that remain in the Settlement Fund after the Final Accounting shall be distributed to the National Consumer Law Center and the Citizens Housing and Planning Association, in equal amounts, as *cy pres*. No unclaimed funds will revert to RBS.

5.17. No Prejudice to Insurance Claims. Settlement Class Members who have previously made or who make an insurance coverage claim in the future on any LPFI policy will not be affected in any way as a result of their participation in this Settlement, and may participate in this Settlement to the same extent as Settlement Class Members who have not made an insurance coverage claim on their LPFI policy.

5.18. No Claim as to Settlement Administration. No person shall have any claim against RBS, the Named Plaintiffs, Class Counsel, or the Claims Administrator based on distributions or payments made in accordance with this Settlement Agreement.

OTHER PAYMENTS FROM THE SETTLEMENT FUND

6.1. Service Awards. Subject to the Court's approval, each Named Plaintiff may receive a service award not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for their time and effort in bringing and prosecuting the flood insurance claims that are the subject of this Settlement Agreement. Any service awards shall be paid from the Settlement Fund, as approved by the Court. Whether and to what extent any service awards are approved by the Court shall be within the discretion of the Court, and the Parties' Settlement Agreement (and Plaintiffs' support of the Settlement Agreement) is not conditioned upon Court approval of such service awards in any amount.

6.2. Attorneys' Fees and Expenses. At least thirty (30) days prior to the Opt-Out Deadline, Class Counsel shall file a Motion for Attorneys' Fees and Expenses in accordance with FED. R. CIV. P. 23(h). Class Counsel shall seek an award of attorneys' fees not to exceed one

third (33.33%) of the Settlement Fund. In addition, Class Counsel's request for reimbursement of expenses shall be limited to Class Counsel's out-of-pocket expenses in the Actions. All of Class Counsel's attorneys' fees and expenses shall be paid from the Settlement Fund, as approved by the Court. Whether and to what extent attorneys' fees and expenses are awarded by the Court shall be within the discretion of the Court, but in no event shall attorneys' fees exceed one-third of the Settlement Fund. Class Counsel's Motion for Attorneys' Fees and Expenses shall be considered separately by the Court from its consideration of the fairness and adequacy of this Settlement Agreement, and any order with respect to this separate Motion shall not affect or delay the approval of this Settlement Agreement. This Settlement Agreement (and Plaintiffs' support of the Settlement Agreement) is not conditioned upon Court approval of attorneys' fees and expenses in any amount.

6.3. Settlement Administration. All fees and expenses of the Claims Administrator shall be paid from the Settlement Fund in addition to Class Counsel's expenses, as approved by the Court. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize the Claims Administrator's fees and expenses related to its administration of this Settlement.

6.4. Within one (1) business day after RBS makes the deposit specified by Paragraph 5.1, the Claims Administrator shall make all payments from the Settlement Fund approved by the Court for distribution to the Class Representatives, Class Counsel, and the Claims Administrator pursuant to Paragraphs 6.1, 6.2, and 6.3.

PRELIMINARY APPROVAL

7.1. After good faith consultation with counsel for RBS, Co-Lead Class Counsel will file a Motion for Preliminary Approval of Class Action Settlement and for certification of the

Settlement Classes within five (5) business days following the execution of this Agreement. The motion shall include a proposed Preliminary Approval Order in substantially similar form as **Exhibit D** hereto. The Parties shall, in good faith, take reasonable steps to secure expeditious entry by the Court of the Preliminary Approval Order and shall request that the Court schedule a Final Approval Hearing no earlier than one hundred twenty (120) business days after the Preliminary Approval Order.

NOTICE OF SETTLEMENT

8.1. Production of Class List. Within ten (10) business days after the Preliminary Approval Date, RBS will provide the Claims Administrator and Co-Lead Class Counsel with a database containing the last known contact information for the Settlement Class Members as follows: name, mailing address, property address and loan number. The Class List shall also designate whether the Class Member is a member of Class 1 or Class 2. The Class List shall be produced subject to the Protective Order entered in the Actions.

8.2. Mailing of Class Notice. Within seventeen (17) days after the Preliminary Approval Date (the "Class Notice Date"), the Claims Administrator shall send the Class Notice to each Class Member via United States first class mail. For purposes of this mailing, the Claims Administrator shall use the addresses provided to it by RBS, subject to appropriate updating based on the NCOA Database.

8.3. Re-Mailing of Returned Class Notices. Any Class Notices that are returned as non-deliverable with a forwarding address shall promptly be re-mailed by the Claims Administrator to such forwarding address. To the extent that any Class Notices are returned as non-deliverable without a forwarding address, the Claims Administrator shall conduct a skip trace to locate valid address information for the intended recipients of such Class Notices, and

shall promptly re-mail the Class Notice, as applicable, to any Class Members for whom new address information is identified.

8.4 Website Notice. Effective on the Class Notice Date, the Claims Administrator also shall make active a settlement website (www.Citizensfloodinsurancelitigation.com) describing the terms of the Settlement and from which Settlement Class Members can download relevant documents such as the Settlement Agreement; the Class Notice; the Claim Form; the operative Complaints; the Court's Preliminary Approval Order and Plaintiffs' Preliminary Approval Motion; Class Counsel's Motion for Final Approval and Motion for Attorneys' Fees and Expenses; and the Court's Final Approval Order. The website shall remain active until such time as distributions of Settlement Payments are completed and the period for cashing settlement checks expires.

8.5. Declaration Regarding Class Notice. At least five (5) business days prior to the deadline for the filing of Plaintiffs' Final Approval Motion, the Claims Administrator shall provide counsel for the Parties with a declaration setting forth: (a) due diligence and proof of mailing of the Class Notice; (b) the total number of Settlement Class Members who were sent the Class Notice; and (c) the total number of Settlement Class Members who submitted timely requests for exclusion or objections to the Settlement, along with complete copies of all requests for exclusion and objections, including the postmark dates for each request for exclusion or objection.

8.6. CAFA Notice. RBS shall serve the Class Action Fairness Act ("CAFA") notice required by 28 U.S.C. § 1715 within ten (10) days of the filing of the Preliminary Approval Motion. RBS shall bear the cost of this CAFA notice, which shall not be deducted from the settlement fund.

OPT-OUTS AND OBJECTIONS

9.1. **Opt-Outs.** The Class Notice shall provide that Settlement Class Members who wish to exclude themselves from the Settlement must submit a written statement requesting exclusion from the Settlement (“Opt-Out Request”), postmarked no later than the Opt-Out Deadline. Such Opt-Out Request must contain the name, address, telephone number, and email address of the Settlement Class Member requesting exclusion, and be personally signed by the Settlement Class Member who seeks to opt out. No Opt-Out Request may be made on behalf of a group of Settlement Class Members. An Opt-Out by one co-borrower on a mortgage loan or HELOC shall be binding on all other co-borrowers on that same loan. The Opt-Out Request must be sent by mail to the Claims Administrator and must be timely postmarked as set forth above. The postmark date of the mailing envelope shall be the exclusive means used to determine whether an opt-out has been timely submitted. The Claims Administrator shall provide the Parties with copies of all Opt-Out requests on a weekly basis, and within five (5) business days after the Opt-Out Deadline, the Claims Administrator shall provide the parties with a report that includes the total number of Settlement Class Members who submitted Opt-Out Requests (the “Opt-Out Report”). Any Settlement Class Member who requests exclusion from the Settlement will not be entitled to any Settlement Payment and will not be bound by this Settlement Agreement or have any right to object, appeal or comment thereon.

9.2. **Objections.** The Class Notice shall provide that any Settlement Class Member who wishes to object to the Settlement Agreement must file a written statement of objection with the Court and mail a copy to the Claims Administrator, filed and postmarked no later than the Opt-Out Deadline. The written statement of objection must state the basis for the objection. Such objection must contain the name, address, telephone number, and email address of the

Settlement Class Member making the objection, and be personally signed by the Settlement Class Member. The objection must be sent by mail to the Claims Administrator and must be timely postmarked as set forth above. The postmark date of the mailing envelope shall be the exclusive means used to determine whether a written statement of objection has been timely submitted. The Claims Administrator shall provide the Parties with copies of all objections on a weekly basis. Settlement Class Members who fail to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from seeking review or making any objection (whether by appeal or otherwise) to the Settlement or the terms of the Agreement.

9.3. Appearance. Subject to the approval of the Court, any Settlement Class Member who files and serves a written objection in accordance with Paragraph 9.2 may appear, in person or by counsel, at the Final Approval Hearing, to show cause why the proposed Settlement should not be finally approved, but only if the objecting Settlement Class Member: (i) files with the Clerk of the Court a notice of intention to appear at the Final Approval Hearing by the Opt-Out Deadline (“Notice of Intention to Appear”); and (ii) serves the Notice of Intention to Appear on all counsel designated in the Class Notice by the Opt-Out Deadline. The Notice of Intention to Appear must include copies of any papers, exhibits or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing. Any Settlement Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in this paragraph shall not be entitled to appear at the Final Approval Hearing and raise any objections.

FINAL APPROVAL

10.1. Final Approval Motion. At least fourteen (14) days before the Final Approval Hearing, or as otherwise ordered by the Court, Plaintiffs shall file a Motion for Final Approval of Class Action Settlement.

10.2. Matters to Be Considered at Final Approval Hearing. At the Final Approval Hearing, the Court will consider and determine whether the provisions of this Agreement should be approved; whether the Class Notice sent to Settlement Class Members constituted the best notice practicable under the circumstances; whether the terms of the Settlement are fair, reasonable, and adequate; whether any objections to the Settlement should be overruled; whether Class Counsel's Motion for Approval of Attorneys' Fees and Expenses should be approved; whether the requested service awards and the fees and expenses of the Claims Administrator should be approved; and whether a Judgment finally approving the Settlement should be entered.

10.3. Final Approval Order. This Agreement is subject to and conditioned upon the issuance by the Court of a Final Approval Order which grants final approval of this Agreement and:

- a. Finds that the Class Notice satisfies the requirements of due process and FED. R. Civ. P. 23;
- b. Finds that the Agreement is fair, reasonable and adequate to the Settlement Classes, such that each Settlement Class Member (except those who submit a timely and valid request for exclusion) shall be bound by this Agreement;
- c. Dismisses on the merits and with prejudice all claims asserted in the Action against RBS;

- d. Permanently enjoins all Settlement Class Members (except those who submit a timely and valid request for exclusion), and any person actually or purportedly acting on their behalf, from bringing, joining, or continuing to prosecute against RBS any action asserting the Released Claims; and
- e. Retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Settlement.

This Agreement is not, however, conditioned upon the Court's approval of any amounts requested for attorneys' fees and expenses, service awards, or fees and expenses of the Claims Administrator.

EFFECTIVE DATE

11.1. The Effective Date of the Settlement shall be the last date on which all the following have occurred:

- a. The Court enters a Final Approval Order finally approving the Settlement of the Action in a manner substantially consistent with the terms and intent of the Agreement and dismissing the Action with prejudice;
- b. Either: (i) thirty-five (35) days have passed after entry of the Court's Final Approval Order and within such time, no appeal is taken of the Court's Final Approval Order, or (ii) the date after all appellate remedies are exhausted and the Court's Final Approval Order is upheld, or not altered in a manner that is substantially inconsistent with the Final Approval Order, provided that any change or modification that may increase RBS's liability or reduce the scope of the Release or of the Class shall be considered substantial; and
- c. No Party with a right to do so has terminated the Agreement.

TERMINATION OF AGREEMENT

12.1 The Named Plaintiffs, on behalf of the Settlement Class Members, by Class Counsel, and RBS, by its counsel, shall each have the right to unilaterally terminate this Agreement by providing written notice of an election to do so ("Termination Notice") to all other Parties hereto within fourteen (14) calendar days of any of the following occurrences:

- a. the District Court rejects, materially modifies, materially amends or changes, or declines to preliminarily or finally approve the Settlement Agreement;
- b. an appellate court reverses the Final Approval Order, and the Settlement Agreement is not reinstated without material change by the District Court on remand;
- c. any court incorporates into, or deletes or strikes from, or modifies, amends, or changes, the Preliminary Approval Order, Final Approval Order, or the Settlement Agreement in a way that RBS or Class Counsel seeking to terminate the Settlement Agreement reasonably considers material;
- d. the Effective Date does not occur; or
- e. any other ground for termination provided for elsewhere in this Agreement.

12.2. If, at the conclusion of Opt-Out Deadline, more than ten (10) percent of the Settlement Class Members opt-out of the Settlement, RBS shall have, in its sole and absolute discretion, the option to terminate this Agreement, within ten (10) business days after the Opt-Out Deadline.

12.3. If either Class Counsel or RBS terminates this Agreement as provided herein, the Agreement shall be of no force and effect and the Parties' rights and defenses shall be restored, without prejudice, to their respective positions as if this Agreement had never been executed, and any Orders entered by the Court in connection with this Agreement shall be vacated.

NO ADMISSION OF LIABILITY

13.1 RBS has asserted or would assert numerous defenses to the claims alleged in the Actions, and expressly denies each of the claims and allegations asserted against it and any and all liability arising out of the conduct alleged in the Actions. By entering this Agreement, RBS does not admit any wrongdoing, and this Agreement shall not constitute an admission of liability by RBS. Further, nothing herein shall constitute an admission by RBS that the Actions are properly brought on a class or representative basis other than for settlement purposes. Nonetheless, RBS has concluded that further litigation would be protracted and expensive, and would also divert management and employee time. RBS has taken into account the uncertainty and risks inherent in litigation. RBS has therefore concluded that it is desirable that the Actions be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement.

RELEASE OF CLAIMS

14.1. Class Release. Upon the Effective Date, and in consideration of the promises and covenants set forth in this Settlement Agreement, the Named Plaintiffs and each Settlement Class Member (excluding successful opt-outs), and each of their assigns, heirs, successors and personal representatives, shall be deemed to have released completely and forever discharged RBS and each of its employees, agents, predecessors, parents, subsidiaries, and affiliates (the “Released Parties”), from each of the Released Claims (as defined below). This Release shall specifically apply to bar any dispute within the scope of this Release, whether, whenever and however such dispute or issue may arise or be raised, including disputes over the amount of flood insurance coverage required by RBS, including that RBS is limited by the terms of the relevant loan and mortgage documents to require coverage in the amount of the loan at any time during the life of a

Settlement Class Member's HELOC or Mortgage Loan (except to the extent that the dispute relates to whether RBS is in compliance with this Settlement Agreement).

For purposes of this Settlement Agreement, "Released Claims" means all claims actually asserted against RBS in the Actions and any related claims which could be asserted against RBS in connection with LPFI and flood insurance practices and procedures for mortgage loans or home equity lines of credit originated or serviced by RBS during the Class Periods, based upon the allegations in the Complaint in the Richards Action or the Third Amended Complaint in the Cook Action, including, without limitation, claims that RBS improperly required Settlement Class Members to purchase and/or maintain flood insurance not required by law, or in amounts greater than required by law or necessary to secure the sums borrowed or the amount of credit available; that RBS improperly required Settlement Class Members to purchase and/or maintain flood insurance coverage amounts that were not required by the terms of the relevant loan and mortgage documents; that RBS misrepresented applicable flood insurance requirements at the time such insurance was demanded and/or force placed; that RBS failed to adequately disclose flood insurance requirements in the relevant loan and mortgage documents; that RBS improperly changed the terms of customers' loans or credit plans relating to flood insurance without proper notice or authorization; that RBS purchased force-placed flood insurance coverage through and/or from related entities in bad faith at inflated premiums; that RBS accepted commissions on force-placed flood insurance; or that RBS engaged in any other similar flood insurance practices in violation of the TILA, the CUTPA, the NYDPA, and OCSPA, or any other state's unfair trade practices statute; and any related claims for premiums, penalties, interest, punitive damages, costs, attorneys' fees, restitution, injunctive relief, declaratory relief, or accounting based on or related to the alleged claims in the Actions.

14.2. Covenant Not to Sue. Named Plaintiffs and each Settlement Class Member (excluding successful opt-outs) agree not to institute any action or cause of action against any Released Party with respect to any of the Released Claims, or otherwise to assist others in doing so, and agree to be forever barred from doing so, in any court of law or equity, with any local, state or federal governmental agency, or with any administrative body.

14.3. Limitation on Class Releases. The foregoing class releases set forth in Paragraph 14.1 shall not apply to Settlement Class Members who opt out or whose Settlement Notices were returned as non-deliverable and could not be later-delivered through the reasonable efforts of the Claim Administrator.

MISCELLANEOUS

15.1. Press Releases. Except as required by law or as agreed upon in writing by the Parties, Class Counsel and/or Plaintiffs will not issue press releases regarding the settlement, unless RBS agrees to such press releases in advance, which consent may not be unreasonably withheld.

15.2. Stay of Proceedings. The Parties agree that all proceedings in the Actions shall be stayed pending and following preliminary approval of the Settlement, except as necessary to implement the Settlement or this Settlement Agreement, or to comply with the terms of Settlement.

15.3. Continuing Jurisdiction. The Court will have continuing jurisdiction over the action for the purpose of implementing the Settlement and all related matters, including granting final approval of the Settlement, and addressing any post-judgment issues, until all related matters are fully resolved. Any dispute regarding the Parties' obligations pursuant to this Settlement Agreement and/or interpretation of the terms of this Settlement Agreement will be

presented to, and resolved by the Court.

15.4. Integration of Exhibits. The exhibits to the Settlement Agreement are an integral and material part of this Agreement and are hereby incorporated and made a part of the Agreement.

15.5. Calculation of Deadlines. All references to the number of days in this Agreement are to calendar days, unless otherwise stated.

15.6. Amendments/Modifications. Subject to any power of the Court to order a modification, the Settlement Agreement may be amended or modified only by a written instrument signed by each of the Parties and their respective counsel of record.

15.7. Acknowledgment. Each of the Parties acknowledges and represents such Party (a) has fully and carefully read this Settlement Agreement prior to execution; (b) has been fully apprised by counsel of the legal effect and meaning of the terms of this Settlement Agreement; (c) has had the opportunity to undertake whatever investigation or inquiry is necessary or appropriate in connection with this Settlement Agreement and the Action; (d) has been afforded the opportunity to negotiate any and all terms of this Settlement Agreement; and (e) is executing this Settlement Agreement voluntarily and free from any undue influence, coercion, or duress of any kind.

15.8. Counterparts. This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same Agreement. This Agreement may be executed by signature delivered by facsimile or PDF, and need not be the original “ink” signature. A complete set of executed counterparts shall be filed with the Court.

15.9. Authority. Each person executing this Settlement Agreement on behalf of any of the Parties hereto represents that such person has the authority to so execute this Agreement.

15.10. Entire Agreement. This Settlement Agreement and the exhibits hereto constitute the entire fully-integrated agreement among the Parties. No representations, warranties or inducements of any kind have been made by either Party relating to this Settlement Agreement, other than as set forth herein.

15.11. No Additional Costs or Fees. Subject to Paragraph 6.2 of this Settlement Agreement, the Parties shall bear their own respective attorneys' fees and costs, and neither Party shall seek additional attorneys' fees or costs beyond the amounts authorized by Paragraph 6.2 and approved by the Court.

15.12. Headings and Captions. The headings and captions inserted in this Settlement Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Settlement Agreement, or any term of this Settlement Agreement.

15.13. Notices. All notices to the Parties or counsel required by the Agreement shall be made in writing and communicated by mail and email to the following:

If to Plaintiffs or Class Counsel:

Kai Richter
krichter@nka.com
Nichols Kaster, PLLP
4600 IDS Center
80 South 8th Street
Minneapolis, MN 55402

and

Shanon Carson
scarson@bm.net
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103

If to Defendant or Defendant's Counsel:

LeAnn Pedersen Pope
Burke, Warren, Mackay & Serritella, P.C.
lpope@burkelaw.com
330 North Wabash Avenue
22nd Floor
Chicago, IL 60611
and

Robert G. Flanders, Jr.
rflanders@hinckleyallen.com
Hinckley Allen & Snyder, LLP
50 Kennedy Plaza
Suite 1500
Providence, RI 02903-2319

15.14. Governing Law. This Agreement shall be governed by the laws of the State of Rhode Island.

Dennis Cook



Date: 5/30/14

RBS Citizens Bank, N.A.

By: _____
Title _____
Date: _____

Robert Haberman

Date:

William Nuesslein

Date:

James Edward Richards

Date:

If to Defendant or Defendant's Counsel:

LeAnn Pedersen Pope
Burke, Warren, Mackay & Serritella, P.C.
lpope@burkelaw.com
330 North Wabash Avenue
22nd Floor
Chicago, IL 60611

and

Robert G. Flanders, Jr.
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Hinckley Allen & Snyder, LLP
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Suite 1500
Providence, RI 02903-2319

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Dennis Cook

RBS Citizens Bank, N.A.

Date:

By: _____

Title _____

Date: _____

Robert Haberman


Date: *May 30, 2014*

William Nuesslein

Date:

James Edward Richards

Date:

If to Defendant or Defendant's Counsel:

LeAnn Pedersen Pope
Burke, Warren, Mackay & Serritella, P.C.
lpope@burkelaw.com
330 North Wabash Avenue
22nd Floor
Chicago, IL 60611

and

Robert G. Flanders, Jr.
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Dennis Cook

RBS Citizens Bank, N.A.

Date:

By: _____


Title _____

Date: _____

Robert Haberman

Date:

William Nuesslein



Date: *MAY 30, 2014*

James Edward Richards

Date:

If to Defendant or Defendant's Counsel:

LeAnn Pedersen Pope
Burke, Warren, Mackay & Serritella, P.C.
lpope@burkelaw.com
330 North Wabash Avenue
22nd Floor
Chicago, IL 60611
and

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Dennis Cook

RBS Citizens Bank, N.A.

Date:

By: _____

Title _____

Date: _____

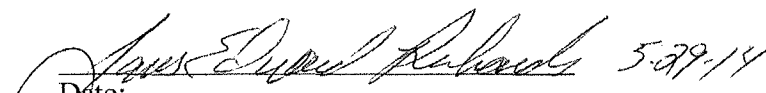
Robert Haberman

Date:

William Nuesslein

Date:

James Edward Richards


Date: 5-29-14

If to Defendant or Defendant's Counsel:

LeAnn Pedersen Pope
Burke, Warren, Mackay & Serritella, P.C.
lpope@burkelaw.com
330 North Wabash Avenue
22nd Floor
Chicago, IL 60611

and

Robert G. Flanders, Jr.
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Hinckley Allen & Snyder, LLP
50 Kennedy Plaza
Suite 1500
Providence, RI 02903-2319

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Dennis Cook

Date:

RBS Citizens Bank, N.A.

By: Heather J. Bortz
Title SVP, Head of DMMFO
Date: 5/30/14

Robert Haberman

Date:

William Nuesslein

Date:

James Edward Richards

Date:

APPROVED AS TO FORM AND CONTENT:

NICHOLS KASTER, PLLP

By: _____
Kai Richter

BERGER & MONTAGUE, P.C.

By: _____
Shanon J. Carson

Counsel for Plaintiffs and the Classes

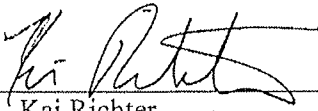
BURKE, WARREN, MACKAY &
SERRITELLA, P.C.

By: 
LeAnn Pedersen Pope

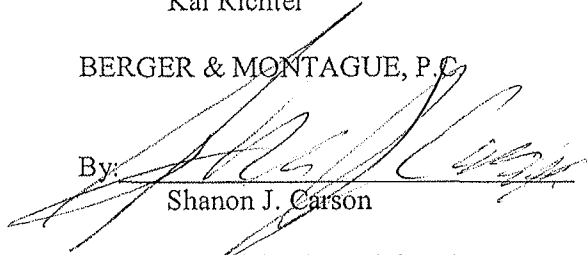
Counsel for Defendants

APPROVED AS TO FORM AND CONTENT:

NICHOLS KASTER, PLLP

By: 
Kai Richter

BERGER & MONTAGUE, P.C.

By: 
Shanon J. Carson

Counsel for Plaintiffs and the Classes

BURKE, WARREN, MACKAY &
SERRITELLA, P.C.

By: _____
LeAnn Pedersen Pope

Counsel for Defendants