

1 Richard K. Bridgford, Esq., SBN: 119554
2 Michael H. Artinian, Esq., SBN: 203443
3 **BRIDGFORD, GLEASON & ARTINIAN**
4 26 Corporate Plaza, Suite 250
5 Newport Beach, CA 92660
6 Telephone: (949) 831-6611
7 Facsimile: (949) 831-6622

8 Richard L. Kellner, Esq., SBN: 171416
9 **KABATECK LLP**
10 633 West Fifth Street, Suite 3200
11 Los Angeles, CA 90017
12 Telephone: (213) 217-5000
13 Facsimile: (213) 217-5010

14 John Patrick McNicholas, IV, Esq., SBN: 125868
15 **McNICHOLAS & McNICHOLAS, LLP**
16 10866 Wilshire Blvd., Suite 1400
17 Los Angeles, CA 90024
18 Telephone: (310) 474-1582
19 Facsimile: (310) 475-7871

20 Attorneys for Plaintiffs JEFF SMITH and JULIE SMITH,
21 on behalf of themselves and all others similarly situated

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **COUNTY OF ORANGE**

24 JEFF SMITH, an individual; JULIE
25 SMITH, an individual; on behalf of
26 themselves and all others similarly situated,

27 Plaintiffs,

28 vs.

PULTE HOME CORPORATION; and
DOES 1-100,

Defendants.

AND RELATED CROSS-CLAIM.

CASE NO. 30-2015-00808112-CU-CD-CXC
Assigned for all purposes to:
Judge Peter Wilson
Dept. CX-101

**DECLARATION OF PATRICK
MCNICHOLAS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: March 2, 2023
Time: 2:00 p.m.
Dept.: CX-101

Complaint Filed: 09/14/2015

DECLARATION OF PATRICK MCNICHOLAS

I, Patrick McNicholas, declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts of the State of California and am a principal at McNicholas & McNicholas LLP, co-counsel of record for Plaintiffs in the above-captioned action (“Named Plaintiffs”). I have personal knowledge of the proceedings in this matter, including those facts and circumstances stated herein. If called upon to do so, I could and would competently testify under oath as to those matters set forth in this Declaration.

2. My firm is co-counsel on all the pending related pinhole leak class litigation cases. My firm was approached by Bridgford, Gleason & Artinian firm to jointly prosecute these pinhole class cases along with the law firm of Kabateck, LLP.

3. I have been practicing law since 1986. I am a founding partner of McNicholas & McNicholas, LLP which was established in 1993. My firm has extensive class action litigation experience as further set forth in our curriculum vitae attached hereto as **Exhibit 1**.

4. With respect to the standing of counsel in this case, the curriculum vitae attached as Exhibit 1 sets forth the experience of the partners at McNicholas & McNicholas, LLP.

5. Over the course of the litigation of this and the related actions, Plaintiffs have engaged in extensive legal research, motion practice, appellate practice, discovery, class certification, and trial preparation. These efforts include researching general theories of pinhole leaks, including applicability of SB 800 and other laws to the facts of this case under several theories of liability; collecting pipe samples from homeowners that contained the pinhole leaks, retaining and conferring with experts, and providing bids for repairs; obtaining detailed information about various contractors used by builders on 70 separate developments in Ladera Ranch, Yorba Linda, Irvine and San Clemente; researching the Santa Margarita Water District; and obtaining extensive information from homeowners in the area complaining of pinhole leaks, including the time and place of pinhole leaks experienced, which companies made repairs, and the builder’s responses to each report of a leak. Class Counsel has also thoroughly reviewed the relevant facts and documents supporting the various claims made as alleged in the litigation.

1 Plaintiffs have conducted class certification related discovery, including taking the depositions of
2 corporate representatives from Defendants and SMWD, propounding and/or responding to
3 document requests, special interrogatories and requests for admission, and reviewing all of the
4 documents produced in this action. My firm has been involved in all of the foregoing.
5

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct. Executed this 3rd day of February 2023, at Los Angeles, California.
8

9 /s/ Pat McNicholas
Patrick McNicholas, Esq.
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EXHIBIT 1

PATRICK McNICHOLAS

Curriculum Vitae

Since being admitted to the Bar in 1986, Mr. McNicholas has specialized in handling civil trial matters. Mr. McNicholas has tried in excess of 70 jury trials. Areas of emphasis include personal injury and wrongful death with a particular focus on products liability, civil rights, wrongful termination, general negligence, class actions and mass actions.

PRESENT POSITION

PARTNER

McNICHOLAS & McNICHOLAS LLP

10866 Wilshire Boulevard, Suite 1400
Los Angeles, California 90024-4338
(310) 474-1582

REPRESENTATIVE CASES

Wrongful Death

Do Right's Plant Growers vs. RSM Equico, Inc. et al.

44,000,000 – settlement for consumer fraud class action stemming from breach of contract.

Doe Family vs. Doe Railroad Company- (confidential settlement)

\$5,000,000 - settlement on behalf of family for death of father while riding as a passenger on train; co-lead with Bridgford, Gleason & Artinian.

Pasillas vs. LAMTA

\$6,000,000 - settlement on behalf of family with two children for death of father while working in MTA tunnel. Public entity case. Public entity liability.

Air Crash Victims

\$44,000,000 - co-lead; 5 deaths, one survivor

3 College Students Stabbed

\$7,000,000 – three UCSB students stabbed and killed by roommate; represented six parents

Emotional Distress

William S. vs. Bonita Unified

\$10,000,000 - verdict for emotional distress from sexual harassment

Current Mass Tort/Class Actions

Orange County Defective Copper Pipes Litigation. Bridgford, Gleason & Artinian and McNicholas & McNicholas, LLP, filed 18 class actions for damages for defective pipes in thousands of homes. The class actions have settled in excess of \$ 6,000,000. Fifteen class actions are pending.

Porter Ranch Litigation on behalf of residents to recover damages for a gas well blow out.

Francis Bechtel vs. California Department of Water and Power
Class action filed by McNicholas & McNicholas, LLP and The Franz Law Group to recover evacuation damages for 186,000 residents for failure of the Oroville Dam Spillway.

Bowman vs. Pacific Gas & Electric

Mass action case for Northern California fires filed by The Frantz Law Group, Bridgford, Gleason & Artinian and McNicholas & McNicholas. Patrick McNicholas is on the Plaintiff's Steering Committee. Represent 4,300 victims.

Southern California Edison Wildfire Litigation- Represent 1,200 victims for claims arising out of the Thomas Fire and Woolsey Fire.

MGM Grand/Las Vegas Mass Shooting- \$35,000,000 settlement for victims, 2021.

Jury Verdicts

Damianakes vs. City of Los Angeles

Gender Discrimination

Jury Verdict - \$2.3M

Francis v. City of Los Angeles

Race Discrimination

Jury Verdict - \$5.4M

Nagatoshi v. City of Los Angeles
Race Discrimination
Jury Verdict \$3.6M

Higgins v. Toshiba
Age Discrimination
Jury Verdict - \$2.4M

Moran vs. Shan
Sexual Harassment
Jury Verdict/Judgment - \$2.2M
Wirta v. Oliver & Williams
Products Liability
Jury Verdict - \$5.6M

Daniel Gray vs. Air Products & Chemicals, Inc., The Saxon Group, Inc.
Products Liability
Jury Verdict - \$10.2M

Skelton vs. Bonita Unified
Sexual Abuse
Jury Verdict - \$10.2M

Arbitration

John Taibi vs. Camelot Residential Care Facility
Binding Arbitraion ,Wrongful Death - \$1M.

Class Actions

Epson Ink Print Auto Shut Off
Settlement valued at \$300M

Callaways vs. Mercedes Benz
Auto Defect Settlement Valued - \$85M

**EDUCATIONAL
BACKGROUND**

Loyola High School, Los Angeles 1979
B.S. - University of San Francisco, 1983
J.D. - McGeorge School of Law, University of the Pacific, 1986

COURTS TO

California Supreme Court and all intermediate and

WHICH ADMITTED

trial courts in California; United States District Court, Central and Eastern Districts of California

PROFESSIONAL ASSOCIATIONS

American College of Trial Lawyers, Southern California; Membership Committee (2014 – 2017)
American Board of Trial Advocates (1998 – Present)
American College of Trial Lawyers (2008 – Present)
Los Angeles County Bar Association, Trustee (2004 – 2006)
Consumer Attorneys of California, Lifetime
Consumer Attorneys of Los Angeles, Lifetime
American Association of Justice, Lifetime

TEACHING

1992 - 1993; Adjunct Professor, Whittier College School of Law, Los Angeles, Course of Trial Advocacy.

ARTICLES

“Cross-Examination of the Defense Expert”
(1997 CAALA Las Vegas Convention);

“Preparing the Employment Case for Trial”
Forum (1998), Vol. 28, No. 9;

“The Danger Creation Doctrine and Section 1983:
Governmental Liability for Third Party Torts”
Forum (1999), Vol. 29, No. 5

“The Essentials of Representing The Injured Seaman”
Forum (2001), Vol. 31, No. 2

“Motions *in Limine*: Controlling and Previewing the Evidence”
Forum (2003), Vol. 33, No. 5

“Effective Use of Your Expert Witnesses”
Forum (2004), Vol. 34, No. 7

“Cutting Edge Presentation Technology In “The Information Age”

“California Court of Appeal Confirms Application of Civil Rights
Legislation to Workplace Discrimination Claims”
Forum (2006), Vol. 36, No. 8

SERVICE

Judge Pro Tem., Los Angeles Superior Court
Settlement Officer, Los Angeles Superior Court (1995 – 2008)
Board of Trustees, University of San Francisco (2006 – 2012)
Founder, Board of Directors, Urban Compass (2004 – present)
Civil Justice Research Institute, Berkley Law, UCI School of Law
(2015 – present)
Trustee, Los Angeles County Bar Association (2006-2008)

ADDITIONAL

Participant:

ABOTA Masters in Trial, 1993 Beverly Hills and West Virginia
1995, Newport Beach 2004, Los Angeles 2012

Speaker:

Los Angeles Trial Lawyers Association - 1994
CAOC 34th Annual Convention (San Francisco) - 1995
CAOC 35th Annual Convention (San Francisco) - 1996
CAALA Annual Convention (Las Vegas) - 1997
CAOC 33rd Annual Lake Tahoe Seminar - 1998
CAOC 37th Annual Convention (San Francisco) – 1998
CAALA Annual Convention (Las Vegas) – 2001
CAOC 42nd Annual Convention (Monterey) - 2003
CAALA Annual Convention (Las Vegas) - 2004
CEB Civil Litigation Before Trial (Los Angeles) – 2006
ABOTA Masters of Opening Statements and Final Arguments
(Los Angeles) – 2012
CAOC Annual Convention, San Francisco; Products Liability Trial
- 2017

Recognitions:

Super Lawyers by Los Angeles Magazine 2005
Super Lawyers by Los Angeles Magazine 2006
Super Lawyers by Los Angeles Magazine 2007
Super Lawyers by Los Angeles Magazine 2008
Super Lawyers by Los Angeles Magazine 2010
Super Lawyers by Los Angeles Magazine 2012
Top 100 Southern California Lawyers by Super Lawyers 2005
Top 100 Southern California Lawyers by Super Lawyers 2006
Top 100 Southern California Lawyers by Super Lawyers 2007
Top 100 Southern California Lawyers by Super Lawyers 2008
Top 100 Southern California Lawyers by Super Lawyers 2009
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Top 100 Southern California Lawyers by Super Lawyers 2016
Top 100 Southern California Lawyers by Super Lawyers 2017
Top 100 Southern California Lawyers by Super Lawyers 2018
Best Trial Lawyers
Best Lawyers, Best Law Firms; US News and World Report
The National Trial Lawyers
Top 100 Trial Lawyers
Daily Journal Top Plaintiff Lawyers, California, 2020
Daily Journal Top Verdicts, Appellate Reversal, 2019

PROOF OF SERVICE
Smith v. Pulte Homes, et al.
Orange County Superior Court Case No.: 30-2015-00808112

I, the undersigned, declare that:

I am over the age of 18 years and not a party to the within action. I am employed in the County where the Proof of Service was prepared and my business address is Law Offices of BRIDGFORD, GLEASON & ARTINIAN, 26 Corporate Plaza, Suite 250, Newport Beach, CA 92660.

On the date set forth below, I served the following document(s): **DECLARATION OF PATRICK MCNICHOLAS IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the interested party(s):

SEE ATTACHED SERVICE LIST

by the following means:

- () **BY MAIL:** By placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid. I am readily familiar with the business practice for collecting and processing correspondence for mailing. On the same day that correspondence is processed for collection and mailing it is deposited in the ordinary course of business with the United States Postal Service in Newport Beach, California to the address(es) shown herein.
- () **BY PERSONAL SERVICE:** By placing a true copy thereof, enclosed in a sealed envelope, I caused such envelope to be delivered by hand to the recipients herein shown (as set forth on the service list).
- () **BY OVERNIGHT DELIVERY:** I served the foregoing document by Overnight Delivery as follows: I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to recipients shown herein (as set forth on the service list), with fees for overnight delivery paid or provided for.
- (X) **BY ELECTRONIC MAIL (EMAIL):** I caused a true copy thereof sent via email to the address(s) shown herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 3, 2023

/s/Debbie Knipe

Debbie Knipe

SERVICE LIST
Smith v. Pulte Homes, et al.
Orange County Superior Court Case No.: 30-2015-00808112

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>John Patrick McNicholas, IV, Esq. McNICHOLAS & McNICHOLAS, LLP 10866 Wilshire Blvd., Suite 1400 Los Angeles, CA 90024</p> <p>Brian S. Kabateck, Esq. Richard L. Kellner, Esq. KABATECK LLP 633 West Fifth Street, Suite 3200 Los Angeles, CA 90017</p> <p>Joseph A. Ferrentino, Esq. Jeffrey R. Brower, Esq. NEWMAYER & DILLION LLP 895 Dove Street, 2nd Floor Newport Beach, CA 92660</p> <p>Adrienne D. Cohen, Esq. Temre L. Fischer, Esq. LAW OFFICES OF ADRIENNE D. COHEN 18300 Von Karman Ave., Suite 410 Irvine, CA 92612</p> <p>Anna S. McLean, Esq. SHEPPARD MULLIN RICHTER & HAMPTON Four Embarcadero Center, 17th Floor San Francisco, CA 94111-4109</p> <p>Tracey A. Kennedy, Esq. SHEPPARD MULLIN RICHTER & HAMPTON 333 South Hope St., 43rd Floor Los Angeles, CA 90071-1422</p>	<p>Co-Counsel for Plaintiffs Telephone: (310) 474-1582 Facsimile: (310) 475-7871 pmc@mcnicholaslaw.com</p> <p>Co-Counsel for Plaintiffs Telephone: (213) 217-5000 Facsimile: (213) 217-5010 bsk@kbklawyers.com rlk@kellnerlaw.com</p> <p>Counsel for Defendant/Cross-Complainant PULTE HOME CORPORATION Telephone: (949) 854-7000 Facsimile: (949) 854-7009 joseph.ferrentino@ndlf.com jeffrey.brower@ndlf.com sue.peterson@ndlf.com Jennifer.sebring@ndlf.com</p> <p>Counsel for Intervenor ACE AMERICAN INSURANCE COMPANY for RCR PLUMBING & MECHANICAL, INC. Telephone: (714) 954-0790 Fax: (714) 954-0791 adc@adcohen.com ckw@adcohen.com tlf@adcohen.com</p> <p>Counsel for Defendant/Cross-Complainant PULTE HOME CORPORATION Telephone: (415) 434-9100 Facsimile: (415) 434-3947 amclean@sheppardmullin.com</p> <p>Counsel for Defendant/Cross-Complainant PULTE HOME CORPORATION Telephone: (213) 620-1780 Facsimile: (213) 620-1398 tkennedy@sheppardmullin.com</p>
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