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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

KENDALL BRASCH, an individual; on behalf of himself and all others similarly situated,

Plaintiffs,

vs.

K. HOVNANIAN ENTERPRISES, INC., a Corporation; K. HOVNANIAN COMPANIES OF CALIFORNIA, INC., a Corporation; PLUMBING CONCEPTS, INC., a Corporation; MUELLER INDUSTRIES, INC., a Corporation; and DOES 1-100,

Defendants.

**CASE NO. 30-2013-00649417-CU-CD-CXC**

Assigned for all purposes to:  
Judge Melissa R. McCormick  
Dept. CX-104

**ORDER AND JUDGMENT APPROVING CLASS ACTION SETTLEMENT AND AWARDING ATTORNEYS' FEES, LITIGATION COSTS AND CLASS REPRESENTATIVE SERVICE AWARD**

**Hearing Date: December 7, 2023**

**Time: 2:00 p.m.**

**Dept.: CX-104**

Complaint Filed: 5/9/2013

AND RELATED CROSS-CLAIM.

**WHEREAS**, on December 7, 2023, the Court held a hearing on the motion filed by Plaintiff KENDALL BRASCH (“Plaintiff”) for final approval of the class action settlement with Defendants K. HOVNANIAN ENTERPRISES, INC. and K. HOVNANIAN COMPANIES OF CALIFORNIA, INC. (collectively hereinafter “Defendants”), embodied in the Parties’ Class Settlement and Release, and also Plaintiffs’ and Class Counsel’s motion for final approval of the Class Counsel’s award of

1 attorneys' fees, litigation costs and class representative service award. Richard Kellner, Esq. of  
2 Kabateck LLP and Michael Artinian, Esq. of Bridgford Gleason & Artinian having appeared for  
3 Plaintiffs and Bill Warne, Esq. and Meghan Baker, Esq. of Downey Brand having appeared for  
4 Defendants.

5 The Court has reviewed the final (and preliminary) approval motion papers, including the class  
6 notice and related forms, and is satisfied that the class notice procedures ordered by the Court were  
7 properly implemented. It appears to the Court that Class Members have been given notice of the  
8 Settlement and how to participate and receive their settlement shares, the opportunity to challenge their  
9 settlement amount, the election to exclude themselves from the Settlement, and the opportunity to  
10 comment on or object to the Settlement or any of its terms.

11 Having read and considered the Settlement and the papers filed in support of Plaintiffs'  
12 unopposed motion for final approval and Plaintiffs' and Class Counsel's papers requesting final  
13 approval of the Class Representative Service Award, the Class Counsel attorneys' fees, and the Class  
14 Counsel litigation costs (including the supporting declaration submitted by Makenna Snow of ILYM  
15 Group, Inc.), and the evidence and argument received by the Court on all of these motions.

16 **GOOD CAUSE APPEARING, IT IS HEREBY ORDERED, ADJUDGED AND**  
17 **DECREEED THAT:**

18 1. This Court has jurisdiction over the subject matter of this litigation and over all Parties  
19 to this litigation, including all Class Members. This Court shall maintain continuing jurisdiction for  
20 the purpose of construing, enforcing and administering the Settlement Agreement pursuant to Code of  
21 Civil Procedure § 664.6 or as otherwise provided under statute.

22 2. The Court is satisfied that ILYM Group, Inc., which functioned as the Settlement  
23 Administrator, fully performed its duties in connection with the Settlement Notice including: (a)  
24 performing a title search on the 151 properties applicable to this settlement (b) printing and mailing the  
25 *Notice of Proposed Class Action Settlement and Final Hearing, Prior Owner Verification Form, and*  
26 *Request for Exclusion Form* to the homeowners in the chain of title to the 151 properties; (c) receiving  
27 and processing any requests for exclusion; and (d) receiving and processing Prior Owner Verification  
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1 Forms, and mailing a letter to the current owner of those properties. The foregoing comports  
2 with California Rule of Court 3.766.

3 a. ILYM shall also conduct an address skip trace on any returned settlement checks,  
4 with such returned checks re-mailed at least once. Any of the settlement checks  
5 that are not cashed (unless substituted) within 180 days shall be deposited to the  
6 California State Controller's Office under Unclaimed Property Law.

7 3. The Class Notice informed the Class Members of the Settlement terms, their rights to  
8 participate in the settlement, their right to challenge their estimated Settlement Amount, their rights to  
9 exclude themselves from the Settlement, their rights to comment on or object to the Settlement, and  
10 their rights to appear at the "Final Approval Hearing", and be heard regarding approval of the  
11 Settlement. Adequate periods of time to respond to the Class Notice were provided. The Settlement  
12 Administrator reports that no Class Members filed written objections to the Settlement as part of this  
13 notice process, and no Class Members filed a written statement of intention to appear at the Final  
14 Approval Hearing. In addition, the Settlement Administrator confirms that no one requested to  
15 exclude themselves from the Settlement. Accordingly, the Court recognizes that the participation rate  
16 in this Settlement is 100%.

17 a. There are no disputes concerning the proper class member to receive payment for  
18 any of the class homes.

19 4. The notice procedure afforded adequate protections to Class Members and provides the  
20 basis for the Court to make an informed decision regarding approval of the Settlement based on the  
21 Class Members' responses. The Court determines that the notice provided in this Action was the best  
22 notice practicable, which satisfied the requirements of law and due process.

23 5. The Court grants final approval of the Settlement and the Settlement Class based upon  
24 the terms set forth in the Stipulation of Class Action Settlement and Release. All terms used herein  
25 shall have the same meaning as defined in the Settlement Agreement, and final judgment under the  
26 terms therewith.

27 6. The Settlement and Settlement Agreement are fair, adequate, and reasonable to the  
28 Class.

1           7.       The Court finally certifies, for settlement purposes only, the following Settlement Class  
2 consistent with the Court’s ruling granting preliminary approval on July 5, 2023:

3                   *(1) All present owners of residential homes in the Class Area whose copper pipe*  
4                   *systems have not been replaced by prior owners of the homes; or (2) prior owners of*  
5                   *homes in the Class Area who replaced their copper pipe system; provided that with*  
6                   *regard to (1) and (2); (a) the homes were constructed by K. Hovnanian (“Builder”) and*  
7                   *the homes were substantially completed within (10) years of the filing of the original*  
8                   *complaint in this action; and (b) the original purchase agreements were signed by the*  
9                   *Builder on or after 01/01/2003, and (c) the SB 800 claims were not released, and (d) the*  
10                   *original-purchaser class members were not compelled to arbitration by the Court or*  
11                   *have not stipulated to arbitration by agreement of the parties as approved by the Court.*

12           8.       With respect to the Settlement Class, this Court finds that: (a) the members of the  
13 Settlement Class are so numerous their joinder is impracticable; (b) there are questions of law and fact  
14 common to the Settlement Class which predominate over any individual questions; (c) the claims of  
15 the Plaintiff are typical of the claims of the Settlement Class; (d) Plaintiff and Class Counsel have  
16 fairly and adequately represented and protected the interests of the Settlement Class; and (e) a class  
17 action is superior to other available methods for the fair and efficient adjudication of the controversy.

18           9.       The Court finally approves the Settlement, including the individual Settlement  
19 Amounts, as being fair, adequate and reasonable to the Class and to each Class Member, Plaintiffs  
20 have satisfied the standards and applicable requirements for final approval of class action settlement  
21 under California law, including the provisions of Code of Civil Procedure Section 382, and the Court  
22 grants final approval of the Settlement set forth in the Settlement Agreement. The Court orders the  
23 Parties to comply with and carry out all terms and provisions of the Settlement.

24           10.      The \$476,002.33 amount requested by Plaintiffs and Class Counsel for the Class  
25 Counsel Fees Payment is fair and reasonable. The Court grants final approval of, and orders, the Class  
26 Counsel attorneys' fees payment to be made in accordance with the Settlement.

27           11.      The Court finds that \$99,064.70 in Class Counsel's litigation expenses is fair and  
28 reasonable. The Court grants final approval of, and orders, the Class Counsel's litigation expenses in  
this amount to be made in accordance with the Settlement.

          12.      The \$19,550.00 incurred by ILYM Group, Inc. (the Settlement Administrator) to date,  
which equals the cap on its Administrative Expenses, is fair and reasonable. The Court grants final

1 approval of, and orders, the Settlement Administrator be paid this amount in accordance with the terms  
2 of the Settlement.

3 13. The \$10,000.00 amount requested by Plaintiff for the Incentive Award is fair and  
4 reasonable given the amount of time and effort Plaintiff expended, the benefits conferred on the Class,  
5 and the risks undertaken by them. The Court grants final approval of, and orders the Class  
6 Representative service award of \$10,000.00 to Kendall Brasch, to be made in accordance with the  
7 Settlement.

8 14. Upon entry of this Final Judgment, and in accordance with Section 5.2 of the Settlement  
9 Agreement, all Participating Settlement Class Members fully release Defendants, Cross-Defendants,  
10 and each and all of their past, present, and future parents, subsidiaries, subcontractors, affiliated  
11 companies and corporations, and each and all of their respective past, present, and future directors,  
12 officers, managers, employees, general partners, limited partners, principals, agents, insurers,  
13 reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint  
14 ventures, assigns, or related entities, and each and all of their respective executors, successors, assigns,  
15 and legal representatives, and any subcontractors hired by Defendants to construct or work on the  
16 homes listed on the Class Home List and each and all of their past, present, and future parents,  
17 subsidiaries, subcontractors, affiliated companies and corporations, and each and all of their respective  
18 past, present, and future directors, officers, managers, employees, general partners, limited partners,  
19 principals, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors,  
20 successors, divisions, joint ventures, assigns, or related entities, and each and all of their respective  
21 executors, successors, assigns, and legal representatives, as well as any supplier, manufacturer or  
22 distributor of copper pipe for potable water systems in the Settlement Class Members' homes and each  
23 and all of their past, present, and future parents, subsidiaries, subcontractors, affiliated companies and  
24 corporations, and each and all of their respective past, present, and future directors, officers, managers,  
25 employees, general partners, limited partners, principals, agents, insurers, reinsurers, shareholders,  
26 attorneys, advisors, representatives, predecessors, successors, divisions, joint ventures, assigns, or  
27 related entities, and each and all of their respective executors, successors, assigns, and legal  
28 representatives, from any and all claims, demands, rights, liabilities, suits, matters, obligations,

1 damages, losses, costs, actions and causes of action of every nature and description whatsoever, in law  
2 or equity, known or unknown, that the Class Representative ever had against Plaintiffs' Released  
3 Parties, as well as any other supplier, manufacturer, distributor, or installer of copper plumbing lines or  
4 systems in the Class Representative's homes and their insurers, including claims for penalties,  
5 attorneys' fees and costs of such, that arise from the design, installation, repair, or use of copper  
6 plumbing lines and systems in the homes and any alleged violations of California Civil Code section  
7 895 et seq. arising from the design, installation, repair, or use of copper plumbing lines and systems.  
8 Without limiting the foregoing, and for clarification, excluded from the Settled Class Claims are any  
9 *other* construction defects or *other* claims relating to the construction of the homes identified in  
10 Exhibit A to the Settlement Agreement, against any parties, including Defendants, which are not  
11 alleged in the Action.

12 15. Nothing in the Settlement or the Final Judgment purports to extinguish or waive  
13 Defendants' rights to continue to oppose the merits of the claims in this Action or class treatment of  
14 these claims in this case if the Settlement fails to become Final or effective, or in any other case  
15 without limitation. The Settlement is not an admission by Defendants, nor is this Order and Final  
16 Judgment a finding of the validity of any allegations against Defendants in this proceeding or any  
17 wrongdoing by Defendants. Neither the Settlement nor this Final Judgment is a finding that  
18 certification of the Class may be construed as or used as an admission by or against Defendants of any  
19 fault, wrongdoing or liability whatsoever.

20 16. Every Participating Settlement Class Member shall be bound by and only take from  
21 their Complaint the relief set forth in the Settlement, this Order Granting Final Approval and this Final  
22 Judgment. All Participating Settlement Class Members are bound to the Release by Settlement Class  
23 Members in favor of Defendants and the other Plaintiffs' Released Parties as set forth in the  
24 Settlement, and are permanently barred from prosecuting against Defendants and the other Plaintiffs'  
25 Released Parties any and all of Settlement Class Members' Settled Class Claims as defined in the  
26 Settlement.

27 17. A copy of this Order Granting Final Approval of Class Settlement and Final Judgment  
28 shall, in addition to being available on the Register of Actions [docket] of this action, shall also be

1 posted on the website established for the Settlement and shall remain on the website for a period of  
2 180 days.

3 18. The Parties shall bear their own respective attorneys' fees and costs except as otherwise  
4 provided in the Settlement.

5 19. Upon the Settlement Effective Date, as defined in the Settlement Agreement, the  
6 Settlement Administrator shall calculate within five (5) business days the Net Settlement Fund and  
7 shall thereafter distribute the Settlement benefits to Participating Settlement Class Members from the  
8 Settlement Fund in accordance with this Order and the Settlement Agreement.

9 20. Pursuant to California Rule of Court 3.769(h), the Court retains jurisdiction solely for  
10 purposes of enforcing the Settlement, this Judgment, addressing settlement administration matters, and  
11 addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

12 21. The Court will hold a status conference for a final accounting on **October 3, 2024 at**  
13 **9:00 a.m.** in Department CX104. Class Counsel shall submit a final report at least nine (9) court days  
14 prior to that conference regarding the status of the settlement administration. The final report must  
15 include all information necessary for the Court to determine the total amount actually paid to class  
16 members and any amounts tendered to the State Controller's Office under Unclaimed Property law.

17  
18 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

19  
20 Dated: December 8, 2023



21 \_\_\_\_\_  
22 Melissa R. McCormick  
23 JUDGE OF THE SUPERIOR COURT  
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**PROOF OF SERVICE**  
**Brasch v. K. Hovnanian, et al.**  
**Orange County Superior Court Case No.: 30-2013-00649417**

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): **[REVISED PROPOSED] FINAL ORDER AND JUDGMENT APPROVING CLASS ACTION SETTLEMENT AND AWARDED ATTORNEYS' FEES, LITIGATION COSTS AND CLASS REPRESENTATIVE SERVICE AWARD** 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.
- 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: December 7, 2023

\_\_\_\_\_  
/s/Debbie Knipe

Debbie Knipe



**SERVICE LIST**  
**Brasch v. K. Hovnanian, et al.**  
**Orange County Superior Court Case No.: 30-2013-00649417**

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