

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

JIM McGAFFIN, BECKY McGAFFIN,)
DANIEL NUNN, and STEFANIE NUNN,)
)
Plaintiffs,)
)
v.)
)
ARGOS USA LLC,)
)
Defendant.)
_____)

CIVIL ACTION FILE
NO. 4:16-cv-00104-LGW-GRS

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into this 5th day of March, 2020, by and between Argos USA LLC (“Argos”), on the one hand, and Plaintiffs Jim McGaffin, Becky McGaffin, Daniel Nunn, and Stefanie Nunn, and each member of the proposed class as defined below, on the other hand, subject to and conditioned on preliminary and final approval by the United States District Court for the Southern District of Georgia.

WHEREAS:

- A. The Definitions appearing in Section 2 and other terms defined in this Settlement Agreement are incorporated by reference in these introductory sections.
- B. During the relevant time period, Argos was a manufacturer and distributor of concrete mixes.
- C. The Complaint alleges that Argos 868 concrete was improper for use in slab applications and that such use caused the Class Members to suffer damages to their properties.
- D. Named Plaintiffs, on behalf of themselves and the putative Class Members, have filed this class-action against Argos.

E. Argos vigorously denies all allegations of wrongdoing or liability made in the Litigation. Argos considers it desirable, however, to enter into this Settlement Agreement without in any way acknowledging any fault or liability, and solely for the purpose of terminating this Litigation to avoid the cost, expense, inconvenience, uncertainty, distraction, time, and effort required to continue to defend such complex, burdensome, and protracted litigation, and to permit the continued operation of its affairs unfettered by the tangible and intangible expense of the Litigation and the distraction and diversions of itself and of its key personnel.

F. This Settlement Agreement and all related documents are not and shall not be construed as an admission or concession by Argos of any fault or liability or wrongdoing, or of any deficiencies, faults, errors or omissions of any nature whatsoever of or by Argos.

G. Class Counsel are familiar with the claims being settled and the defenses asserted. Class Counsel have conducted a thorough investigation relating to the claims and underlying events and transactions alleged in the Complaint and have consulted frequently with the Named Class Representatives.

H. Class Counsel believe that the Litigation has substantial merit. However, Class Counsel recognize and acknowledge that the expense and length of continued proceedings necessary to prosecute the Litigation against Argos through trial and appeals may be risky, costly, and a time-consuming undertaking. Class Counsel also have taken into account the uncertain outcome of any appellate proceeding related to this Court's previous certification of an issue-class and the risk of further litigation, especially in a complex suit such as this action, as well as the difficulties and delays inherent in such litigation. Class Counsel have also taken into account, among other things, the strengths and uncertainties of the claims asserted in the

Litigation and the substantial benefits to be conferred on the Class by the settlement set forth in this Settlement Agreement. Class Counsel, therefore, have determined that the settlement set forth in this Settlement Agreement is in the best interests of the Class.

I. Counsel for the Parties have engaged in an intensive, arms-length negotiations process over the course of many months that included one formal mediation and multiple in-person, day-long informal mediation meetings concerning the settlement of Plaintiffs' claims against Argos.

J. This Settlement Agreement and related documents are not and shall not be construed as an admission or a concession by Named Class Representatives as to the merits of their claims whatsoever.

K. It is the intention of the Parties that the proposed settlement described in this Settlement Agreement completely resolves, releases, and forever discharges all claims that are or could have been alleged concerning Argos 868 concrete, except for any claims expressly reserved herein including claims for medical harm or personal injuries.

L. Argos has agreed to settle the Litigation as part of a complete settlement and a release of all claims arising out of the allegations in the present case that have been or could have been asserted by Named Plaintiffs and Class Members, except for any claims expressly reserved herein with regard to present or future claims for personal injury.

NOW THEREFORE, intending to be legally bound hereby, and in consideration of the promises, mutual covenants and conditions contained herein, IT IS STIPULATED, CONSENTED TO AND AGREED as follows, by and among the Parties, through the undersigned attorneys on behalf of their respective clients and the Settlement Class, for purposes

of the settlement only and subject to the approval of the Court under Federal Rule of Civil Procedure 23(e):

1. Settlement

The Litigation and all claims alleged or which could have been alleged by Named Class Representatives and Class Members concerning Argos 868 concrete (as further set forth and refined in the Releases and Covenants sections below), except any claims expressly reserved to Named Class Representatives and Class Members herein with regard to any present or future claims for personal injury, shall be finally and fully settled, compromised and dismissed on the merits, with prejudice and without costs (except as set forth herein), subject to the approval of the Court, in the manner and upon the terms and conditions stated in this Settlement Agreement. Neither the settlement nor this Settlement Agreement shall constitute or be an admission for any purpose by Argos or any other person, or be deemed evidence of any violation of any statutes, regulation, or law, or an admission of any wrongdoing or liability by Argos.

2. Definitions

As used herein, the following terms shall have the meanings stated in this Paragraph:

- a. **“868 concrete”** means the concrete mix identified as 30RAF868 that Argos used in Residential Properties in Georgia and South Carolina during the Class Period.
- b. **“Administration of Settlement”** means provision of the required Notice, receiving, assisting, and maintaining participation and proofs of participation, calculating and verifying participation, and overseeing the distribution of the Settlement Fund.

- c. “**Affected Property**” means any Residential Property in the State of Georgia or the State of South Carolina with 868 concrete as Flatwork thereon.
- d. “**Allocation Amount**” is the dollar value to be paid to the Owner(s) of an Affected Property based on the amount of Eligible Concrete on an Affected Property. There is only one Allocation Amount per Affected Property. The Allocation Amount is calculated as follows: Value Per Yard of Eligible Concrete multiplied by Eligible Concrete equals Allocation Amount. In other words, the number of yards of Eligible Concrete on an Affected Property multiplied by the Value Per Yard of Eligible Concrete.
- e. “**Argos**” shall mean the Argos entity named as a defendant in the Second Amended Complaint.
- f. The “**Argos Releasees**” shall mean and include Argos, parents, subsidiaries, and affiliated corporations/companies and other business entities, and all of their past and present employees, officers, directors, shareholders, members, partners, insurers, accountants, agents, insurers, attorneys, representatives, and anyone involved in any way in, placing, finishing, installing, curing, using, or pouring, the 868 concrete at an Affected Property and each of their heirs, executors, administrators, beneficiaries, subrogees, predecessors, successors, assigns, and each of them.
- g. “**Cash Payment**” is the payment by Argos of Six Million Seven Hundred Thousand dollars (\$6,700,000.00) to the Settlement Fund.

- h. “**Class**” and “**Class Members**” or “**Settlement Class Members**” shall mean and include all Owner(s) of ascertainable Affected Property on March 5, 2020 with at least one yard of Eligible Concrete. Excluded from the Class are:
- Owners of an Affected Property which property has been the subject of a settlement agreement with Argos as to 868 concrete;
 - Owners of an Affected Property where 868 was poured only for Footers, or all 868 concrete has been Removed and Replaced from the property by Argos and/or at Argos’ expense;
 - Owners of an Affected Property who are Argos employees, the spouse of an Argos employee, or child of an Argos employee;
 - Owners of an Affected Property who are judicial officers serving on the U.S. District Court for the Southern District of Georgia or on the U.S. Court of Appeals for the Eleventh Circuit; or
 - Commercial properties where 868 concrete was poured
- i. The “**Class Action**” shall mean the lawsuit captioned *McGaffin, et al. v. Cementos Argos, S.A., et al.* Case No. 4:16cv104, filed in the United States District Court for the Southern District of Georgia, and as amended on March __, 2020.
- j. “**Class Counsel**” shall mean Michael J. Moore, Courtney L. Mohammadi, Jay F. Hirsch, Kimberly J. Johnson, and Wade “Trip” Tomlinson, all of Pope McGlamry, P.C., and Raymond L. Moss of Moss & Gilmore LLP.
- k. The “**Class Period**” shall mean the period of time between and including April 10, 2013, and October 31, 2013.

- l. The “**Court**” shall mean the United States District Court for the Southern District of Georgia, Savannah Division.
- m. “**Delivery Ticket**” shall mean a document created by Argos and produced during the Litigation that includes a delivery address, the amount of 868 concrete poured, and the date of the pour.
- n. “**Effective Date**” means the date on which this settlement becomes binding as to all parties, which shall be the date on which the Final Judgment and Order approving the settlement and any separate Fee Award order become Final.
- o. “**Eligible Concrete**” means the amount of 868 concrete delivered to an Affected Property (expressed in cubic yards) as shown on Argos Delivery Tickets and public records produced during the Litigation, minus any Ineligible Concrete.
- p. “**Fee Award**” means the attorneys’ fees and expenses awarded by the Court to Class Counsel for all the past, present, and future attorneys’ fees and costs (including court costs), expenses, and disbursements incurred by them and their experts, agents, staff, and consultants in connection with the Litigation.
- q. “**Filing Deadline**” means 11:59 p.m. Eastern Time on the 45th day from the date the Notice was issued.
- r. “**Final**” means the later of the following dates:
 - i. the date of expiration of the time for filing or noticing of any appeal from the Final Judgment and Order, or any separate order on any Fee Award, that is, thirty days after the entry of the Final Judgment and

Order or any order on a Fee Award computed in accord with Federal Rule of Civil Procedure 6(a);

- ii. the date of final affirmance of any appeal, the date of expiration of the time for filing petitions for writs of certiorari and, if certiorari is granted, the date of final affirmance following review pursuant to that grant; or
 - iii. the final dismissal of any appeal or proceeding on certiorari.
- s. The “**Final Judgment and Order**” means an order and judgment of the Court substantially in the form submitted by the parties approving this Settlement as fair, reasonable, adequate and in the best interests of the Class and making other findings and determinations including the certification of the Class for settlement purposes only, the appointment of the Named Class Representatives, the appointment of Class Counsel, the notice program to the Class, the approval of the settlement, and the terms and process for the submission of proof of home ownership and the disbursement of the Settlement Fund.
- t. “**Flatwork**” means a concrete placement where a flat surface is created, such as a driveway, sidewalk, or as a slab, whether under a structure, such as a garage, house, or covered porch, or not covered at all.
- u. “**Footers**” mean a structural element of the Affected Property that transmits loads directly to the soil. To the extent that Delivery Tickets and/or other documents produced in this Litigation expressly provide that any amount of

868 concrete was delivered for use as Footers, that amount (expressed in cubic yards) shall not be considered Eligible Concrete.

v. “**Incentive Award**” means any award sought by application to and approval by the Court that is payable to any of the Named Class Representatives to compensate them for their efforts in bringing and participating in the Litigation and achieving the benefits identified herein on behalf of the Settlement Class.

w. “**Ineligible Concrete**” means 868 concrete poured during the Class Period which shall not be considered in calculating Allocation Amounts. Ineligible Concrete is 868 concrete poured on properties:

- where the Owner(s) have Opted-Out or been excluded;
- Where the Owner(s) failed to timely submit a valid Proof of Ownership Form.

Ineligible Concrete is also any 868 concrete that has been Removed and Replaced by Argos and/or at its expense or was exclusively poured for Footers.

x. The “**Litigation**” shall mean the Class Action.

y. The “**Named Class Representatives**” shall mean and include Becky and Jim McGaffin and Daniel and Stefanie Nunn.

z. “**Net Settlement Amount**” is the Cash Payment amount less any Court-approved Fee Award and Incentive Award.

- aa. The “**Notice**” shall mean the Notice of Proposed Class Action, Settlement and Release of Claims, the form and content of which has been jointly approved by the Parties and is attached as Exhibit A.
- bb. “**Objection**” means an objection timely filed with the Court by a Class Member objecting to any aspect of the Settlement Agreement by following the procedures set forth in the Settlement Agreement at paragraph 6(c) and 6(d), in the Order on Notice/Preliminary Approval, and in the Notice.
- cc. “**Opt-Out**” means a timely request by a Class Member to be excluded from the Settlement Class by following the procedures set forth in the Settlement Agreement at paragraph 6(b) and 6(d), and the Order on Notice/Preliminary Approval, and Notice.
- dd. “**Order on Notice/Preliminary Approvals**” means an order of the Court, substantially in the form attached as Exhibit B.
- ee. “**Owner**” shall mean the Class Member(s) who owned the Affected Property on March 5, 2020, as determined by county property records, Proof of Ownership Forms, and/or other available records.
- ff. The “**Parties**” shall mean Named Class Representatives, Class Members, and Argos.
- gg. “**Plaintiffs**” shall mean and include each and all Class Members and Named Class Representatives.
- hh. The “**Preliminary Approval Date**” shall mean the date upon which the Court enters the Order on Notice/Preliminary Approval.

- ii. **“Proof of Ownership Form”** means the document attached hereto as Exhibit C.
- jj. **“Removed and Replaced”** or **“Removal and Replacement”** shall mean the physical and permanent removal of 868 concrete from an Affected Property by Argos or at Argos’ expense.
- kk. **“Residential Property[ies]”** shall mean single-family residences including townhomes, mobile homes, and condominiums, but excluding schools, places of worship, and commercial property[ies].
- ll. **“Settlement Administrator”** shall mean Rust Consulting, subject to Court approval.
- mm. **“Settlement Agreement”** means this Settlement Agreement made and entered into by the Parties in the Litigation and all exhibits attached to it.
- nn. **“Settlement Funds”** means that payment caused to be made by Argos to the Settlement Fund in accord with Section 5 of this Settlement Agreement.
- oo. **“Settlement Hearing”** or **“Settlement Fairness Hearing”** means a hearing pursuant to Federal Rule of Civil Procedure 23 scheduled by the Court to hear any objections, determine, among other things, whether the settlement of the Litigation is fair, reasonable and adequate, whether Class Counsel should be awarded fees and expenses for prosecuting the Litigation, and whether the Named Class Representatives should be awarded Incentive Awards.
- pp. The **“Total Concrete Poured”** is the total amount of 868 concrete (expressed in cubic yards) that Argos’ records indicate were sold and poured by Argos during the Class Period.

- qq. The “**Total Eligible Concrete**” means the Total Concrete Poured less any and all Ineligible Concrete (expressed in cubic yards).
- rr. The “**Total Settlement Value**” means the settlement package described herein totaling \$10.02 million. It consists of the following: (1) payment of \$6.7 million in cash paid into the Settlement Fund by Argos, \$100,000 of which was separately negotiated as \$25,000 incentive awards to each Named Class Representative; (2) up to \$320,000 for the cost of Notice and Administration of Settlement that Argos will pay; and (3) injunctive relief that Argos will undertake as a result of this settlement, and credit related to Removal and Replacement already performed by Argos or at its expense, all collectively valued at approximately \$3 million.
- ss. “**Valid Proof of Ownership Form[s]**” means a Proof of Ownership Form submitted by a Settlement Class Member(s) that: (a) is submitted in accordance with the directions accompanying the Notice and Proof of Ownership Form and the provisions of the Settlement Agreement; (b) is accurately, fully, and truthfully completed and executed, with all of the information requested in the Proof of Ownership Form, by a Settlement Class Member(s); (c) is signed physically or by e-signature by a Settlement Class Member(s) or Person with authority to sign for and bind a Settlement Class Member, subject to the penalty of perjury; (d) is originally received or post-marked by the Filing Deadline; and (e) is determined to be valid by the Settlement Administrator.

tt. “**Value Per Yard of Eligible Concrete**” means the quotient from dividing the Net Settlement Amount by the Total Eligible Concrete and is described as a dollar amount per cubic yard of Eligible Concrete.

3. Submission of Settlement to the Court

- a. As soon as practicable following the execution of this Settlement Agreement, Named Class Representatives shall move the Court for entry of the Order on Preliminary Approval and the issuance of the Notice, in a form to be agreed upon by counsel for the Parties.
- b. Within ten (10) days of the date the Named Class Representatives move for entry of the Preliminary Approval Order and consistent with 28 U.S.C. § 1715, Argos shall cause notice to be sent to the U.S. Attorney General’s office, the Attorney General for the State of Georgia, and the Attorney General for the State of South Carolina. At least seven (7) days before the Settlement Fairness Hearing, Argos shall submit a report to the Court confirming that these notices were timely sent.
- c. If the Court preliminarily approves this settlement, Notice shall be given to the Class in a form and manner jointly approved by the Parties, in accordance with due process and with the Notice specifications approved by the Court in its Order on Notice/Preliminary Approvals.
- d. The Settlement Fairness Hearing shall be held to decide whether the settlement embodied in this Settlement Agreement shall be finally approved as fair, reasonable, and adequate and whether the terms and conditions shall be approved. The Parties shall jointly apply to the Court for approval of the

settlement and shall each file such papers with the Court as their counsel or the Court determines to be necessary. At or before the Settlement Fairness Hearing, proof of mailing of the Notice shall be filed by Class Counsel.

- e. The Parties shall jointly request that the Court enter a Final Judgment and Order, substantially in the form submitted to the Court with Plaintiffs' Motion for Final Approval.
- f. Class Counsel may apply to the Court for a Fee Award, including reimbursement of costs and expenses, in an amount not to exceed \$3.5 million or 35% of Total Settlement Value, whichever is higher (and inclusive of any and all fees and costs), to be paid from the Settlement Fund. Argos does not object to Class Counsel's application requesting the amount above and may respond to inquiries from the Court. Any such award and reimbursement shall be paid exclusively from the Settlement Fund.
- g. All matters relating to the Administration of Settlement, including but not limited to payment to Class Counsel of their fees, costs and expenses, plus interest and disbursement to the Class of the Settlement Fund, shall proceed in accordance with this Settlement Agreement, as approved by orders of the Court.
- h. If the Court does not enter the judgments and orders provided for above, or if the Court enters such judgments and orders and appellate review of any of the judgments or orders is sought, and on such review, any such judgment or order is modified, then this Settlement Agreement shall be canceled and terminated, subject to the provisions of this Settlement Agreement, unless

each Party within thirty (30) days of the date of the entry of such ruling to the Parties, provides written notice to all other Parties of its intent to proceed with the settlement. Notice of intent to proceed with the settlement may be provided on behalf of the Class by Class Counsel.

- i. The obligations to proceed with the settlement are expressly conditioned on:
 - i. the Court's preliminary approval of this Settlement Agreement;
 - ii. the Court's entry of the Final Judgment and Order overruling any objections;
 - iii. the Final exhaustion of rights of appeal as to such Final Judgment and Order; and
 - iv. less than thirty (30) timely and properly filed Opt-Outs as counted by the number of Affected Properties opting out of the settlement, unless Argos elects to waive this condition. If any of these conditions fail, and if Argos at its discretion elects not to proceed with the settlement, the Parties shall return to litigation as if no conditional settlement had ever existed.
- j. If the settlement does not occur for any reason, this Settlement Agreement shall be of no force and effect and shall be void, and the Settlement Fund shall be repaid to Argos as provided by this Settlement Agreement.
- k. Neither the Settlement nor this Settlement Agreement shall constitute or be an admission for any purpose by Argos or any other person, or be deemed evidence of any violation of any statutes, regulation, or law, or an admission of any wrongdoing or liability by Argos.

1. The parties agree to be in the exact procedural position they were in before the Motion for Preliminary Approval was filed.

4. Class Certification

- a. Plaintiffs shall move the Court for an order certifying the Settlement Class for settlement purposes only pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3)(A)-(C) in conjunction with a request for the Court to approve this settlement.
- b. Solely for the purposes of this settlement, Argos will not object to the Court's certification of the Settlement Class pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3)(A)-(C).
- c. Solely for the purposes of this settlement, Argos consents to the appointment of the Named Class Representatives and Class Counsel as adequate and appropriate representatives of the Settlement Class.
- d. Argos expressly denies that this case meets the manageability requirements under Federal Rules of Civil Procedure 23(b)(3)(D). Plaintiffs believe that this case meets the manageability requirements under Federal Rules of Civil Procedure 23(b)(3)(D). Moreover, the Parties are aware that the Court in its review of the Settlement Agreement will not evaluate manageability.
- e. Subject to Court approval under Rule 23(e) of the Federal Rules of Civil Procedure, payment and other consideration paid or provided by Argos in accordance with this Settlement Agreement shall constitute the full and final settlement of the Litigation, and upon the Effective Date, Argos and the Argos Releasees shall have no further liability or obligation to any member of the

Class except as specifically set forth in this Settlement Agreement or in the Final Judgment and Order.

- f. Argos expressly reserves its appellate rights related to this Court's previous certification order in the event that this settlement is not finally approved by the Court or reversed on appeal. No later than three (3) business days of the Effective Date, Argos will dismiss its prior appeal in the Eleventh Circuit. In the interim, Argos agrees to cooperate in continuing the stay presently in place.

5. Settlement Payment

- a. Within three business (3) days of entry of the Final Judgment and Order, Argos agrees to cause to be paid into the Settlement Fund a total of Six Million Seven Hundred Thousand dollars (\$6,700,000) by check or wire transfer into a Qualified Settlement Fund ("QSF") account to be established by Class Counsel pursuant to the Internal Revenue Code. *See* 26 C.F.R. 1.468B-1.
- b. No later than ten (10) business days after the Effective Date, Class counsel shall be paid any and all attorneys' fees and expenses awarded by the Court. All such payments to Class Counsel shall be made exclusively from the Settlement Fund.
- c. No later than ten (10) business days after the Effective Date, the Named Class Representatives shall be paid any Incentive Awards awarded by the Court. Such Incentive Awards are for their efforts on behalf of the Settlement Class,

and are in addition to any distribution or payment they may receive by virtue of their status as one of the Settlement Class Members.

- d. No later than thirty (30) business days after the Effective Date, the balance of the Settlement Fund after any Court-approved Fee Award and Incentive Award, i.e. the Net Settlement Amount, shall be disbursed to each Owner(s) providing a Valid Proof of Ownership Form in a manner consistent with the process explained in Section 6(f).
 - i. The Allocation Amount of each Affected Property will be calculated by multiplying the amount of Eligible Concrete at the Affected Property by the Value Per Yard of Eligible Concrete.
 - ii. There will only be one Allocation Amount per Affected Property. If the Proof of Ownership Form is timely and properly submitted to the Settlement Administrator, and then approved by the Settlement Administrator, a check will be issued in the names of all co-owners.
- e. No payment from the Settlement Fund to Class Counsel, the Named Class Representative, or any Settlement Class Members shall be made until after the Effective Date. The Settlement Administrator will distribute payments to the Class Members who timely submit settlement Proof of Ownership Forms that are approved by the Settlement Administrator in consultation with Class Counsel within thirty (30) days of the Effective Date. All checks will remain valid for one hundred-fifty (150) days, after which they shall become null and void. Any replacement checks that may be issued shall remain valid for only the original 150-day period. Any unclaimed funds shall revert to Argos 180

days after the Effective Date. Argos agrees to timely pay the Settlement Administrator as required. Any dispute between the parties regarding payment to the Settlement Administrator will be submitted to and resolved by the Court.

6. Class Member Options:

- a. Class Members seeking to Object to or “Opt-out” of this Settlement Agreement must strictly comply with the requirements specified in the Class Notice. For Opt-Outs, failure to do so will result in the potential Settlement Class Member remaining part of the Settlement Class and, to the extent the settlement is approved, being bound by the Settlement Agreement. For Objections, failure to do so may result in the Court not considering the objection, and to the extent the settlement is approved by the Court, all objecting Settlement Class Members will be bound by the Settlement Agreement. Any Settlement Class Member who does not Opt-Out of the Settlement has the right to object to the Settlement. Any Settlement Class Member who requests to Opt-Out of the Settlement does not have the right to Object to the Settlement.
- b. All Class Members seeking to be excluded from the Settlement must send to the Settlement Administrator at the address on the Class Notice a letter that includes the following: (1) the Class Member’s full name, address, and telephone number; (2) The names and current addresses of any co-owners of the Affected Property of the Class Member seeking to be excluded; (3) A statement saying that the Class Member wants to be excluded from the Class;

(4) The case name and case number (*McGaffin et al. v. Argos USA LLC*, No. 4:16-cv-00104-LGW-GRS); and (5) the Class Member's signature or the signature of a legally-authorized representative. Any Opt-out letters not containing the required information and/or not submitted to the Settlement Administrator by the deadline established herein will be invalid and the Class Member will not be excluded from the Class, and will not recover unless they submit a Valid Proof of Ownership Form by the deadline established herein.

- c. All Objections regarding or related to the Settlement Agreement shall contain:
- (1) the objector's full name, address, and telephone number;
 - (2) the name, address, and telephone number of any attorney for the objector with respect to the objection;
 - (3) the factual and legal grounds for the objection(s);
 - (4) a statement indicating whether or not you intend to speak at the Settlement Fairness Hearing, which must also include information more fully described below;
 - (5) evidence of his or her membership in the Class;
 - (6) the objector's signature or the signature of a legally-authorized representative;
 - (7) the signature of the objector's counsel, if any;
 - (8) the case name and case number;
 - and (9) a specific list of any other objection by the objector, as well as by the objector's attorney, to any class action settlement submitted to any court in the United States in the previous five years. All objections to the Settlement must be filed with and received by the Clerk of United States District Court, Southern District of Georgia, Savannah Division, 125 Bull Street, Savannah, Georgia 31401. All Objections also must be mailed to the attorneys at the addresses as set forth in the Notice, and mailed to the Settlement

Administrator. If you are represented by an attorney, your Objection must provide the name, address, bar number and telephone number of your attorney. Your attorney must comply with all applicable laws and rules for filing pleadings and documents with the Court. If you or your attorney wants to appear and speak at the Fairness Hearing, your Objection must contain a detailed statement of the specific legal and factual basis for each and every objection; and a detailed description of any and all evidence that you may offer at the Fairness Hearing, including photocopies of any and all exhibits which you may introduce at the Fairness Hearing, and the names and addresses of any witnesses expected to testify. If you Object, you agree to make yourself available to be deposed by any Party in the county of your residence within fourteen (14) days of the deadline to Object as identified in the Notice. Any Objections not containing the required information and/or not submitted to the Court by the deadline established herein will be deemed waived and will not be considered by the Court. If an Objector does not timely submit a Valid Proof of Ownership Form by the deadline established herein, the Objector will not recover from the Settlement Fund.

- d. All Opt-Outs and Objections must be in writing and postmarked no more than forty-five (45) days after the date that Notice is mailed to the potential Settlement Class Members.
- e. Class Members shall have forty-five (45) days from the date Notice is mailed to submit a Proof of Ownership Form in compliance with the terms specified in the Notice and on the Proof of Ownership Form itself. Proof of Ownership

Forms will be approved by the Settlement Administrator if and only if the Class Member(s) complies with the requirements set forth in the Notice and Proof of Ownership Form, including the provision of all required documentation of identity and property interest.

- f. For a Class Member to recover:
- i. The Affected Property must be owned by the Class Member(s) on March 5, 2020. The Class Member(s) may not be a renter or otherwise maintain any property interest through a lease or other contract.
 - ii. The Affected Property must match with an Argos Delivery Ticket address or lot number showing that 868 concrete was poured on the Affected Property, as supplemented by public records and/or other documents produced in the Litigation.
 - iii. Preliminary calculations of the total amount of cubic yards of 868 concrete poured on an Affected Property have been made by the Parties based upon review of Argos Delivery Ticket(s), public records, and/or other documents produced in the Litigation.
 - iv. If more than one Affected Property is referenced on an Argos Delivery Ticket, each Affected Property listed on the Delivery Ticket will receive an equally divided share of the total amount of cubic yards poured, as referenced on the shared Delivery Ticket. Preliminary calculations of shared delivery tickets have been made by the Parties based upon review of Argos Delivery Ticket(s), public records, and/or other documents produced in the Litigation.

- v. If any Removal and Replacement has been performed or paid for by Argos on the 868 concrete after it was poured, the Removed and Replaced concrete is considered Ineligible Concrete. Ineligible Concrete is not included in a Class Member(s)' Eligible Concrete and therefore is not a part of the calculation of Allocation Amount. Preliminary calculations identifying the amount of concrete Removed and Replaced have been made by the Parties based upon review of Argos Delivery Tickets and/or other documents produced in the Litigation.
- vi. The Affected Property must be located in either Georgia or South Carolina.
- vii. The Affected Property must not be one where the 868 concrete mix was poured solely for Footers, as reflected by Argos Delivery Tickets.
- viii. If Argos Delivery Tickets reflect that 868 concrete was poured for Footers on the Affected Property, such concrete is considered Ineligible Concrete. Ineligible Concrete is not included in a Class Member's Eligible Concrete and therefore is not a part of the calculation of the Allocation Amount. Preliminary calculations identifying the amount of concrete poured for Footers have been made by the Parties based upon review of Argos Delivery Tickets and/or other documents produced in the Litigation.
- g. The Named Class Representatives are bound by this Settlement Agreement and agree not to Opt-Out or file an Objection to the Settlement Agreement.

h. Proof of Ownership Forms will be sent with the Notice to each Owner of an ascertainable Affected Property.

i. Proof of Ownership Forms shall require that each Class Member verify under oath that the Class Member held an ownership interest in the Affected Property on March 5, 2020. The Settlement Administrator will receive the Proof of Ownership Forms and determine whether any such form is a Valid Proof of Ownership Form. The Settlement Administrator is permitted to contact the Class Member to obtain additional information if necessary.

ii. If multiple persons or entities owned the same Affected Property on March 5, 2020, all owners should consult with each other and timely submit one Proof of Ownership Form to the Settlement Administrator that identifies all Owners, contains the proper verification documents, and contains the signature of an Owner under penalty of perjury.

iii. Proof of Ownership Forms that do not meet the requirements set forth in this Agreement, the Notice, and/or Proof of Ownership Form instructions shall be rejected. Where a good faith basis exists, the Settlement Administrator may reject a Class Member's Proof of Ownership Form for, among other reasons, the following:

1. The Settlement Class Member fails to provide adequate support of their claims pursuant to a request of the Settlement Administrator;

2. Failure to fully complete and/or sign the Proof of Ownership Form;
 3. Illegible Proof of Ownership Form;
 4. The Proof of Ownership Form is fraudulent;
 5. The Proof of Ownership Form is duplicative of another Proof of Ownership Form or is for the same Affected Property;
 6. The person submitting the Proof of Ownership Form is not a Settlement Class Member, or is requesting that funds be paid to a person or entity that is not the Class Member for whom the Proof of Ownership Form is submitted;
 7. Failure to timely submit a Proof of Ownership Form; and/or
 8. The Proof of Ownership Form otherwise does not meet the requirements of this Settlement Agreement, the Class Notice, or the Proof of Ownership Form Instructions.
- iv. Deficient Proof of Ownership Forms: Subject to the limitations and qualifications stated herein, the Settlement Administrator shall review all Proof of Ownership Forms to ensure that all information and documentation required is presented on or with the Proof of Ownership Form. If there is missing information or documentation, the Settlement Administrator shall notify the Settlement Class Member and request correct and complete information and/or documentation. Prior to rejection of a Proof of Ownership Form, the Settlement Administrator shall communicate with the Class Member in an effort

to remedy curable deficiencies in the Proof of Ownership Form submitted, except in instances where the Form is untimely or clearly fraudulent. Untimely and clearly fraudulent submissions shall be rejected without cure attempt. The Settlement Class Member shall have ten (10) days from the date of the communication sent by the Settlement Administrator requesting that the Settlement Class Member cure any Proof of Ownership Form deficiency(ies). If a Settlement Class Member fails to cure the deficiency(ies) such that any required materials and/or missing information is/are not received by the Settlement Administrator within said ten (10) days, the Proof of Ownership Form shall be deemed materially incomplete, and shall be deemed invalid and not paid. Materially complete Proof of Ownership Forms shall not be rejected (e.g., because of a missing zip code or phone number) if the information provided is materially complete so to allow the Settlement Administrator to reasonably process and verify the validity of the submission, and the Proof of Ownership Form is signed as required.

- v. The Settlement Administrator, in consultation with Class Counsel and Argos, will use all reasonable means to identify and determine all Settlement Class Members who owned Affected Property as of March 5, 2020.

7. Additional Measures.

In connection with this Settlement, Argos has agreed to the following injunctive relief, to address concerns raised by Plaintiffs and Class Counsel. These changes are:

- a. As of the Effective Date, Argos will not deliver any 868 mix for residential uses from any of its United States locations.
- b. As of the Effective Date, Argos will perform rigorous testing to confirm strength and durability of the concrete and document the results before using any concrete mix that has a fly ash percentage above 50% for residential flatwork.
- c. As of the Effective Date, Argos agrees to disclose to any purchaser of residential concrete if the percentage of fly ash in a mix equals or exceeds 45%.

8. Named Class Representatives' and Class Members' Release of Unknown or Unsuspected Claims.

For the purposes of implementing a full and complete release and discharge, of all property damage claims, Named Class Representatives and Settlement Class Members expressly acknowledge that the releases provided in this Agreement are intended to include in their effect, without limitation, any and all claims, complaints, charges, or suits, including those claims, complaints, charges or suits which they do not know or suspect to exist in their favor at the time of execution hereof, which if known or suspected, could materially affect their decision to execute this Agreement **but not as to any personal injury claims**. This Agreement contemplates the extinguishment of any such claims, complaints, charges, or suits, and Named Class Representatives and Settlement Class Members hereby expressly and knowingly waive and relinquish any and all rights that they have or might have related to the Released Claims under

California Civil Code § 1542 (and under other statutes or common law principles of similar effect) which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Named Class Representatives and Settlement Class Members acknowledge that they may hereafter discover facts different from, or in addition to, those which they now believe to be true with respect to the Released Claims. Named Class Representatives and Settlement Class Members agree that the following release and waiver shall be and remain effective in all respects notwithstanding such different or additional facts or discovery thereof, and that this Agreement contemplates the extinguishment of all such Released Claims. By executing this Agreement, Named Class Representatives and Settlement Class Members acknowledge that, by signing the release, they are releasing and waiving all Released Claims, whether now known or later discovered. In the Release, Named Class Representatives and Settlement Class Members will acknowledge and agree that this waiver is an essential and material term of this release and the settlement that underlies it and that without such waiver the Agreement would not have been accepted.

Named Class Representatives and Settlement Class Members further agree, promise, and covenant that they will not, nor will any person, organization, or any other entity acting on their behalf, file, charge, claim, sue, participate in, join or cause or permit to be filed, charged, or claimed, any administrative complaints, action for damages, or other relief (including injunctive, declaratory, monetary, or other) against the Released Parties with respect to the allegations and claims asserted in the Class Action or any Released Claims which are the subject of this

Agreement. The Parties agree that this Agreement may be pleaded as a full and complete defense to any and all Released Claims and causes of actions being released pursuant to this Settlement Agreement. Named Class Representatives and Settlement Class Members acknowledge and consent that the Settlement Agreement may be used as the basis for an injunction to halt any action, suit, or proceeding based upon the Released Claims.

9. Release

Subject to Court approval under Rule 23(e) of the Federal Rules of Civil Procedure, payment, and other consideration paid or provided by Argos in accordance with this Settlement Agreement shall constitute the full and final settlement of the Litigation, and upon the Effective Date, Argos and other Released Parties shall have no further liability or obligation to any Settlement Class Member, Named Class Representatives, or Class Counsel except as specifically set forth in this Settlement Agreement or in the Final Judgment and Order. Upon the Final Judgment and Order becoming Final, each Settlement Class Member and the Named Class Representatives, on behalf of themselves and their heirs, executors, administrators, beneficiaries, predecessors, successors, assigns and each of them, and any of their former and present employees, directors, officers, accountants, agents, attorneys, representatives, affiliates, and subsidiaries shall and hereby does forever and fully release and discharge the Argos Releasees, as defined in Section 2(f), and each of them, and any of their former and present employees, directors, officers, accountants, agents, attorneys, insurers, investment bankers, representatives, affiliates, subsidiaries, franchises, and each of their heirs, executors, administrators, beneficiaries, predecessors, successors, assigns and each of them of and from any manner of civil or administrative actions, causes of actions, suits, injunctive relief, obligations, claims, debts, demands, agreements, promises, liabilities, complaints, liens, contracts, charges, penalties,

losses, damages, controversies, costs, expenses, and attorneys' fees whatsoever, whether in law or in equity and whether based on any federal law, state law, common law or foreign law right of action or otherwise, foreseen or unforeseen, matured or unmatured, known or unknown, accrued or not accrued which the Named Class Representative and Settlement Class Members or any of them, ever had, now have, or can have, or shall or may hereafter have concerning Argos 868 concrete either individually, or as a member of a class, against the Argos Releasees, or any of them, for, based on, by reason of, or arising from or in any way relating to the conduct alleged in Plaintiffs' Second Amended Class Action Complaint filed in Case No. 4:16-cv-104 (S.D. Ga.), except that nothing here releases any claim arising out of the violation of breach of the settlement agreement. The release is for all past, present, and future claims. Notwithstanding all of this, the release shall not bar claims for medical harm or personal injuries.

10. Covenant Not to Sue

The Named Class Representatives and Class Members, and each of them, on their own behalf and on behalf of each of their respective heirs, executors, administrators, beneficiaries, predecessors, successors, assigns, and any of their former and present employees, directors, officers, accountants, agents, attorneys, representatives, affiliates, and subsidiaries, covenant and agree not to sue or bring or assert any action, claim, or cause of action, in any jurisdiction, against the Argos Releasees asserting any claim released by this Settlement Agreement. Any claim brought in violation of this covenant shall be immediately dismissed by the forum in which it was brought. The Named Class Representatives and Class Members, and each of them, on their own behalf and on behalf of each of their respective successors and assigns, further covenant and agree not to proceed in any manner, in agency or other proceedings, whether at law, in equity, or by way of administrative hearing, or otherwise, to solicit others to institute any

such actions or proceedings against the Argos Releasees relating to the allegations made in the Litigation.

11. Contingencies.

This Settlement Agreement is expressly contingent upon:

- a. Class Counsel and the Named Class Representative making the representations set forth in Paragraph 3(i) of this Settlement Agreement, and
- b. Owners from no more than thirty (30) Affected Properties timely and properly Opting-Out of the Settlement and/or seeking to be excluded pursuant to Rule 23(c)(2) of the Federal Rules of Civil Procedure. If Argos elects to terminate and withdraw from the Settlement Agreement for this reason, it must do so by written notice to Class Counsel within fourteen (14) days of its receipt from Class Counsel of the last copy of an exclusion or Opt-Out request from a potential Settlement Class Member.

Should owners from more than thirty (30) Affected Properties in total file requests to be excluded from the Class pursuant to Rule 23(c)(2) of the Federal Rules of Civil Procedure, Argos may withdraw from this Settlement Agreement and have no further obligations under this Settlement Agreement whatsoever. In the event that Argos withdraws from this Settlement Agreement as provided in this paragraph, the Parties shall return to litigation as though no Settlement Agreement ever existed.

12. Settlement Administration and Notice Expenses.

The Parties will jointly work with a Settlement Administrator to perform work for Administration of the Settlement and to provide Notice to the Settlement Class Members. The Notice Plan shall satisfy Rule 23 of the Federal Rules of Civil Procedure and be subject to the

Court's approval. The Parties have jointly chosen Rust Consulting as the Settlement Administrator. All decisions regarding Notice shall be made jointly by the Parties. Class Counsel shall ultimately be responsible for ensuring that all required and necessary work is completed to comply with this Court's orders and with all other legal requirements. It is understood that the Settlement Administrator reports to and is responsible to Class Counsel.

Argos agrees to pay for all Notice and Administration Expenses up to \$320,000. Should the cost for the Administration of the Settlement and Notice exceed this amount, the Parties may petition the Court for a determination of who may be responsible for any additional amount. Argos shall not be responsible for any cost that may be incurred by Named Class Representatives or Class Counsel personally in (a) responding to inquiries about this Agreement, the Settlement, or the Class Action; (b) defending the Agreement or the Settlement against any challenge to it; or (c) defending against any challenge to any order or judgment entered under the Agreement, unless otherwise specifically agreed to.

13. Miscellaneous Provisions

- a. All exhibits attached to this Settlement Agreement are completely incorporated herein and each of which is a necessary part of the settlement.
- b. Waiver by any Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.
- c. Upon final approval of the Settlement by the Court, the Final Judgment and Order Approving Settlement will be entered by the Court, providing for the dismissal of the Class Action with prejudice.

- d. All proprietary or confidential documents or information that have been previously provided to Class Counsel or Plaintiffs, as of the Effective Date of this Agreement, including under the Stipulated Protective Order entered in this Class Action on April 3, 2017, shall be returned or destroyed, as provided for in that Order, with certification of the return or destruction to be provided to the producing party within sixty (60) days of the Effective Date.
- e. This Settlement Agreement constitutes the entire agreement among the Parties, and no representations, warranties or inducements other than those set forth herein have been made to any Party concerning this Settlement Agreement. If finally approved by the Court, this Settlement Agreement supersedes any prior agreement or understanding among the Parties. No representations, warranties, inducements, promises, or agreements oral or otherwise not embodied or incorporated in this Settlement Agreement have been made concerning or in connection with this Settlement Agreement, or the attached exhibits. Any and all prior discussions, negotiations, agreements, commitments and understandings relating to this Settlement Agreement are superseded hereby and merged into this Settlement Agreement.
- f. The terms or provisions of this Settlement Agreement may not be changed, waived, modified, or varied in any manner whatsoever unless in writing duly signed by all Parties; any such signed modification shall be with the consent of the Court without further notice to the Class unless the Court requires such additional notice. Any failure by any Party to insist upon the strict performance by any other Party of any of the provisions of this Settlement

Agreement shall not be deemed a waiver of any of its provisions, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Settlement Agreement to be performed by such other Party.

- g. Each of the counsel signing this Settlement Agreement on behalf of the Parties represents that he or she has authority from his or her client or clients to execute this Settlement Agreement on their behalf.
- h. This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one in the same document, provided that counsel for the Parties to this Settlement Agreement shall exchange among themselves original signed counterparts. Electronic or pdf copies of signatures shall be sufficient for purposes of demonstrating original signatures.
- i. This Settlement Agreement shall be binding upon, and inure to the benefit of, successors and assigns of the Parties, once it is approved by the Court and all other conditions have been met.
- j. Notices of breach or termination required by this Settlement Agreement shall be submitted either by first class mail, overnight delivery, or in person to each party signing this Settlement Agreement:

Argos
c/o McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219
Attn: R. Trent Taylor
rtaylor@mcguirewoods.com

Settlement Class
c/o Pope McGlamry
3391 Peachtree Road, NE
Suite 300
Atlanta, GA 30326
Attn: Michael J. Moore
michaelmoore@pmkm.com

and

Moss & Gilmore LLP
3630 Peachtree Road
Suite 1025
Atlanta, Georgia 30326
Attn: Raymond Moss
rlmoss@mossgilmorelaw.com

- k. All terms of this Settlement Agreement shall be governed by and interpreted in accord with the Federal Rules of Civil Procedure and other federal law to the extent applicable; otherwise the law of the State of Georgia shall govern without reference to conflict of laws. This Settlement Agreement shall be enforced solely in this Court. Any disputes arising or related to this Settlement Agreement shall be heard by the Honorable R. Stan Baker if then sitting, or his successor and shall be enforced solely therein. The Parties waive any objection which each such Party may have or hereafter have to the venue of any such suit, action, or proceeding and irrevocably consents to the jurisdiction of the Court in any such suit, action, or proceeding and agrees to accept and acknowledge service of any and all process which may be served in any such suit, action, or proceeding.
- l. Without affecting the finality of the Final Judgment and Order to be entered upon this Settlement, the Court shall retain such continuing jurisdiction as is necessary and appropriate to enforce the settlement, and to administer the

performance of the settlement in accord with its terms, including allowing or disallowing applications for attorneys' fees and other payments, determining and supervising distribution procedures related to the Settlement Fund, identifying Class Members and their respective interests, if any, in the Settlement Fund, sending notices to Class Members, reviewing disputes regarding Proof of Ownership Forms submitted, and distributing the Settlement Fund.

- m. Because of the arms-length negotiations described above, all Parties hereto have contributed substantially and materially to the preparation of this Settlement Agreement, which, therefore, may not be construed against the drafter of it or any portion of it.
- n. All personal pronouns used in this Settlement Agreement, whether used in the masculine, feminine, or neutral gender, shall include all other genders, and the singular shall include the plural and vice-versa.
- o. The Agreement and every stipulation and term contained in it is conditioned upon final approval of the Court and is made for settlement purposes only. Whether or not consummated, this Agreement shall not be (a) construed as, offered in evidence as, received in evidence as, and/or deemed to be evidence of a presumption, concession, or an admission by Named Class Representatives, Settlement Class Members, Argos, or any Releasing or Related Party, of the truth of any fact alleged or the validity of any claim or defense that has been, could have been, or in the future might be asserted in any litigation or the deficiency of any claim or defense that has been, could

have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing, or otherwise of such Party; or (b) construed as, offered in evidence as, received in evidence as, and/or deemed to be evidence of a presumption, concession, or an admission of any liability, fault, or wrongdoing, or in any way referred to for any other reason, by Named Class Representations, Settlement Class Members, Argos, or any Released Party or Released Party in the Class Action or in any other civil, criminal or administration action or proceeding other than such proceedings as may be necessary to effectuate the provisions of the Agreement.

- p. No opinion concerning the tax consequences of the Agreement to any Settlement Class Member is given or will be given by Argos, Argos's Counsel, Class Counsel, or Named Class Representatives, nor is any Party or their counsel providing any representation or guarantee respecting the tax consequences of the Agreement as to any Settlement Class Member. Each Settlement Class Member is responsible for his/her tax reporting and other obligations respecting the Agreement, if any.
- q. The Parties represent and warrant that no person other than the signatories hereto had or has any interest in the matters referred to in this Agreement, and that the Parties have not sold, assigned, transferred, conveyed, or otherwise disposed of any claim, demand, or legal right that is the subject of this Agreement. Named Class Representatives further represent and warrant that to the best of their information and belief, they have no knowledge of any

claims held by them against Argos or the other Released parties that are not released hereto.

- r. Except as expressly provided for herein, each Party shall bear its own attorneys' fees and costs incurred in relation to the Class Action, Released Claims, and this Agreement.
- s. To the extent permitted by law and the applicable rules of professional conduct, Class Counsel state that (1) they are not aware of any other person or attorney who intends to make demands or bring litigation based upon the subject matter of this Litigation, and (2) they have not been notified or otherwise informed of any such intention or consideration thereof. The foregoing shall not restrict the ability of Class Counsel to fulfill their responsibilities to Settlement Class Members in connection with settlement proceedings in this case.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals as of the day and year first written above.

[Signature Blocks on Next Page]

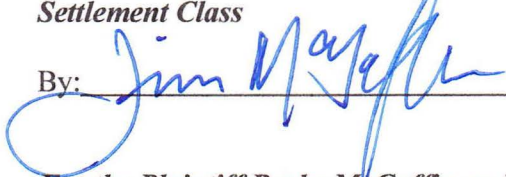
SIGNATURES

Dated this 5th day of March, 2020.

SIGNED AND AGREED:

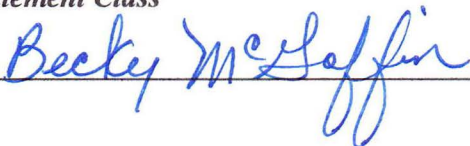
For the Plaintiff Jim McGaffin and the Settlement Class

By: _____



For the Plaintiff Becky McGaffin and the Settlement Class

By: _____



For the Plaintiff Daniel Nunn and the Settlement Class

By: _____

For the Plaintiff Stefanie Nunn and the Settlement Class

By: _____

By: _____

Wade H. Tomlinson, III, Esq.
Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C.
Attorneys for the Plaintiffs and Settlement Class

By: _____

Raymond L. Moss, Esq.
Moss & Gilmore, LLP
Attorney for the Plaintiffs and Settlement Class

For Defendant Argos USA, LLC

By: _____

William Wagner
Argos USA, LLC President

By: _____

R. Trent Taylor, Esq.
McGuireWoods, LLP
Attorneys for Defendant Argos USA, LLC

SIGNATURES

Dated this 5th day of March, 2020.

SIGNED AND AGREED:

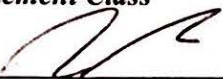
For the Plaintiff Jim McGaffin and the Settlement Class

By: _____

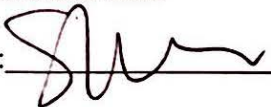
For the Plaintiff Becky McGaffin and the Settlement Class

By: _____

For the Plaintiff Daniel Nunn and the Settlement Class

By:  _____

For the Plaintiff Stefanie Nunn and the Settlement Class

By:  _____

By: _____
Wade H. Tomlinson, III, Esq.
Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C.
Attorneys for the Plaintiffs and Settlement Class

By: _____
Raymond L. Moss, Esq.
Moss & Gilmore, LLP
Attorney for the Plaintiffs and Settlement Class

For Defendant Argos USA, LLC

By: _____
William Wagner
Argos USA, LLC President

By: _____
R. Trent Taylor, Esq.
McGuireWoods, LLP
Attorneys for Defendant Argos USA, LLC

SIGNATURES

Dated this 5th day of March, 2020.

SIGNED AND AGREED:

For the Plaintiff Jim McGaffin and the Settlement Class

By: _____

For the Plaintiff Becky McGaffin and the Settlement Class

By: _____

For the Plaintiff Daniel Nunn and the Settlement Class

By: _____

For the Plaintiff Stefanie Nunn and the Settlement Class

By: _____

By:  _____

Wade H. Tomlinson, III, Esq.
Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C.
Attorneys for the Plaintiffs and Settlement Class

By: _____

Raymond L. Moss, Esq.
Moss & Gilmore, LLP
Attorney for the Plaintiffs and Settlement Class

For Defendant Argos USA, LLC

By: _____

William Wagner
Argos USA, LLC President

By: _____

R. Trent Taylor, Esq.
McGuireWoods, LLP
Attorneys for Defendant Argos USA, LLC

SIGNATURES

Dated this 5th day of March, 2020.

SIGNED AND AGREED:

For the Plaintiff Jim McGaffin and the Settlement Class

By: _____

For the Plaintiff Becky McGaffin and the Settlement Class

By: _____

For the Plaintiff Daniel Nunn and the Settlement Class

By: _____

For the Plaintiff Stefanie Nunn and the Settlement Class

By: _____

By: _____

Wade H. Tomlinson, III, Esq.
Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C.
Attorneys for the Plaintiffs and Settlement Class

By: _____

Raymond L. Moss, Esq.
Moss & Gilmore, LLP
Attorney for the Plaintiffs and Settlement Class

For Defendant Argos USA, LLC

By: _____

William Wagner
Argos USA, LLC President

By: _____

R. Trent Taylor, Esq.
McGuireWoods, LLP
Attorneys for Defendant Argos USA, LLC

SIGNATURES

Dated this ^{12th} 5th day of March, 2020.

SIGNED AND AGREED:

For the Plaintiff Jim McGaffin and the Settlement Class

By: _____

For the Plaintiff Becky McGaffin and the Settlement Class

By: _____

For the Plaintiff Daniel Nunn and the Settlement Class

By: _____

For the Plaintiff Stefanie Nunn and the Settlement Class

By: _____

By: _____

Wade H. Tomlinson, III, Esq.
Pope, McGlamry, Kilpatrick, Morrison & Norwood, P.C.
Attorneys for the Plaintiffs and Settlement Class

By: _____

Raymond L. Moss, Esq.
Moss & Gilmore, LLP
Attorney for the Plaintiffs and Settlement Class

For Defendant Argos USA, LLC

By: _____

Mark Prybylski
Argos USA, LLC General Counsel

By: _____

R. Trent Taylor, Esq.
McGuireWoods, LLP
Attorneys for Defendant Argos USA, LLC

EXHIBIT

A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

If, as of March 5, 2020, you were the owner of a residential property in Georgia or South Carolina where a particular Argos concrete mix, 868, was poured between April 10, 2013 and October 31, 2013 for flatwork applications, your legal rights may be affected by a proposed settlement of a class action lawsuit.

- Named Plaintiffs Becky McGaffin, Jim McGaffin, Daniel Nunn, and Stefanie Nunn have sued Argos USA LLC (“Argos”) alleging negligent design and manufacture and negligent failure to warn related to a particular concrete mix that was used for flatwork applications in residential properties between April 10, 2013, and October 31, 2013. Plaintiffs allege this concrete creates dust that can damage property. Argos denies these allegations.
- No court has ruled on the merits of any claims or defenses in this matter.
- The Parties have reached a settlement in this matter. The Court has granted preliminary approval of the Settlement.
- Your rights are affected and you have a choice to make now. If you remain in this case, you will release all claims concerning the 868 concrete on your Affected Property except for personal injury claims.

YOUR LEGAL RIGHTS AND OPTIONS

SUBMIT A PROOF OF OWNERSHIP FORM	Collect your portion of settlement. If you submit a Proof of Ownership Form and supporting documentation (as detailed below) demonstrating that you are a part of the Class, you will be entitled to a portion of the settlement upon the Final Approval of the Court. In making a claim, you will waive your right to sue Argos on your own about the same claims in this lawsuit.
OPT OUT	Opt out of the settlement. By opting out, you will not recover any portion of the settlement. You will keep your right to sue Argos on your own about the same claims in this lawsuit.
OBJECT	Lodge an objection. By objecting, you are choosing to remain as part of the Class but object to the Settlement’s terms. The Court will review your objection before deciding whether to grant Final Approval. If you object, you still must submit a Proof of Ownership Form to receive any benefits.
DO NOTHING	Ignore this notice. By doing nothing, you are choosing to stay in the lawsuit, but you will not be entitled to a portion of the settlement upon the Final Approval of the Court. You will receive no money from the settlement, and you will waive your right to sue Argos on your own about the same claims in this lawsuit.

- Your rights and options are explained in this Notice. To make a claim, opt out, or object, you must act by [deadline 45 days from issuance]

QUESTIONS? CALL 866-898-5095 OR VISIT www.868concretesettlement.com

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION AND OVERVIEW

1. What is this Notice, and why did I get it?
2. What is this lawsuit about?
3. What is the status of the lawsuit?
4. Why is this a class action?
5. Why is there a Settlement?

WHO IS IN THE SETTLEMENT

6. How do I know if I am part of the Settlement?
7. Are there exceptions to being included?
8. What do I do if I move or sell my property?

THE SETTLEMENT

9. What does the Settlement provide?
10. What can I get from the Settlement?
11. What if there are multiple owners of my property?
12. What am I giving up to stay in the Class?

HOW TO GET SETTLEMENT BENEFITS

13. How can I get a payment?
14. When will I get my payment?
15. How much will my payment be for?

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?
17. How will the lawyers be paid?

EXCLUDING YOURSELF FROM THE SETTLEMENT

18. How do I get out of the Settlement?
19. If I don't exclude myself, can I sue the Defendant for the same thing later?
20. If I exclude myself from the Settlement, can I still get a payment?

OBJECTING TO THE SETTLEMENT

21. How do I tell the Court that I don't like the Settlement?
22. If I object and don't submit a Proof of Ownership Form can I still receive a payment?
23. What's the difference between objecting and asking to be excluded?

IF YOU DO NOTHING

24. What happens if I do nothing at all?

GETTING MORE INFORMATION

25. How do I get more information?

BASIC INFORMATION AND OVERVIEW

1. What is this Notice, and why did I get it?

A Court authorized this notice to inform you how you may be affected by this proposed settlement. This notice describes the lawsuit, the general terms of the proposed settlement and what it may mean to you. This notice also explains how to participate in, or exclude yourself from, the settlement if your property received 868 concrete.

You received this notice because you have been identified as owning an Affected Property on March 5, 2020 that is covered under this Settlement.

2. What is this lawsuit about?

The issue in this litigation is whether an Argos concrete mix known as “868” is defective when used in slabs or flatwork applications, resulting in surface durability and excessive dusting. The 868 concrete was poured in and around residential properties in Georgia and South Carolina from April 10, 2013 through October 31, 2013. The most recent version of the lawsuit, which describes the specific legal claims alleged by the Plaintiffs, is available at www.868concretesettlement.com.

3. What is the status of the lawsuit?

This lawsuit was filed on May 6, 2016. The Parties engaged in extensive discovery and motions practice over several years. On August 30, 2019, the Court granted Plaintiffs’ Motion for Class Certification in part under Federal Rule of Civil Procedure, Rule 23(c)(4). The Defendant is seeking to appeal that ruling to the Eleventh Circuit Court of Appeals. A stay has been entered in the Eleventh Circuit pending the outcome of this settlement.

4. Why is this a class action?

In a class action, one or more people called “class representatives” sue on behalf of themselves and other people with similar claims. All of these people together are the “Class” or “Class Members.” Because this is a class action, even persons who did not file their own lawsuit can obtain relief from harm that may have been caused by the 868 concrete, except for those individuals who exclude themselves from the Settlement Class by the deadline, or who are not eligible under the Settlement Agreement.

5. Why is there a Settlement?

There has been no trial, and the Court has not decided in favor of Plaintiffs or Defendant. Instead, after years of litigation the Plaintiffs and the Defendant agreed to settle to avoid the costs and risks of trial. The Settlement provides the opportunity for payment to Class Members and avoids the cost and uncertainty of a trial and appeals. In exchange, Class Members release the Defendant from all claims, except for personal injury claims, relating to 868 concrete. The class representatives appointed to represent the class and the attorneys for the settlement class (“Class Counsel,” *see* Question 16) believe that the settlement is in the best interests of the Settlement Class Members.

WHO IS IN THE SETTLEMENT

6. How do I know if I am part of the Settlement?

You are receiving this Notice because documents produced during the Litigation, county tax records, and/or other public information indicate that, during the relevant time frame, 868 concrete was poured at a residential address that you owned on March 5, 2020. You are a member of the Settlement Class if:

As of March 5, 2020, you owned residential property located in Georgia or South Carolina where, between April 10, 2013 and October 31, 2013, Argos 868 concrete was used for slabs or flatwork applications.

7. Are there exceptions to being included in the Class?

You will not be included in the Class if:

- you or prior owners of your property previously entered into a settlement agreement with Argos as to 868 concrete on your property;
- you have 868 concrete poured **only for Footers** on your property, or **all** 868 concrete has been **Removed and Replaced** from your property by Argos and/or at Argos’ expense;
- you are an Argos employee, spouse of an Argos employee, or child of an Argos employee
- you are a judicial officer serving on the U.S. District Court for the Southern District of Georgia or on the U.S. Court of Appeals for the Eleventh Circuit;
- your property is a commercial property where 868 was poured

If you exclude yourself from the Settlement, you are also not included in the Class (*see* Question 18).

8. What do I do if I move or sell my property?

If you move after receiving this Notice and before Settlement is finalized, in order to receive additional important notices and payment, you must update your address with the Settlement

Administrator, either via the website, www.868concretesettlement.com, or via phone at 866-898-5095.

THE SETTLEMENT

9. What does the Settlement provide?

The Total Settlement Value totals approximately \$10.02 million. It consists of the following:

1. A cash payment of \$6,700,000 to the Settlement Fund, \$100,000 of which was separately negotiated as \$25,000 in incentive awards to each Named Class Representative.
2. Up to \$320,000 for the cost of Notice and Administration of the Settlement.
3. Injunctive relief that Argos will undertake as a result of this settlement, and credit related to prior Removal and Replacement of 868 concrete performed by Argos or at its expense, collectively valued at approximately \$3,000,000.

The Net Settlement Amount is the total cash amount deposited into the Settlement Fund minus any incentive fee payments to Named Class Representatives and any fees and expenses the Court awards to Class Counsel (*see* Question 17).

The Settlement Agreement, available at the website, www.868concretesettlement.com describes the details about the Settlement.

10. What can I get from the Settlement?

Cash payments (“Allocation Amount”) are based on the following three-step calculation:

- (1) Total Concrete Poured **minus** Ineligible Concrete = Total Eligible Concrete
- (2) Net Settlement Amount **divided by** Total Eligible Concrete = Value Per Yard of Eligible Concrete
- (3) An Affected Property’s Eligible Concrete **multiplied by** Value Per Yard of Eligible Concrete = Allocation Amount

Each of the above terms is defined in the “Definitions” Section of the Settlement Agreement, available at the website, www.868concretesettlement.com. As an example, assume you are the sole owner of an Affected Property with 15 cubic yards of Eligible Concrete. Also assume that, based upon the Proof of Ownership Forms timely submitted and the records reviewed, there are 18,000 cubic yards of Total Eligible Concrete, and assume the Net Settlement Amount is \$3,100,000. The Value Per Yard of Eligible Concrete in this hypothetical is \$172.22. Taking your Affected Property’s 15 yards of Eligible Concrete multiplied by \$172.22, your Allocation Amount is \$2,583.30.

11. What if there are multiple owners of my property?

Only one Proof of Ownership Form should be submitted for all persons who were Owners of an Affected Property on March 5, 2020. If multiple persons owned the same Affected Property on March 5, 2020, all Owners should consult with each other and timely submit one Proof of Ownership Form to the Settlement Administrator that identifies all Owners, contains the proper verification documents, and contains the signatures of an Owner under penalty of perjury. Payment checks will be issued in the names of all co-owners.

12. What am I giving up to stay in the Class?

Unless you exclude yourself from the Settlement (*see* Questions 18 &19), you can't sue, continue to sue, or be part of any other lawsuit against the Defendant concerning Argos 868 concrete, except as to any personal injury claims you may have.

HOW TO GET SETTLEMENT BENEFITS

13. How can I get a payment?

You must timely submit a complete Proof of Ownership Form and agree to the Settlement by submitting it online at www.868concretesettlement.com before [45th day after Notice] at 11:59 p.m. EST, or it can be mailed to the address listed below, but it must be post marked by [45th day after Notice], 2020.

14. When will I get my payment?

If the Settlement receives Final Approval by the Court, the Settlement Administrator will make payments within 30 business days of the Effective Date. The Effective Date is after any appeal time expires or any appeal is resolved in favor of the Settlement. All checks will be negotiable for 150 days from the date they are issued. Any check not cashed or deposited by that date shall be voided, and no one, including Named Class Representatives, Class Counsel, or Argos, shall be liable for payment of those Allocation Amounts.

If a Settlement Class Member loses or fails to receive a check, she or he may timely contact the Settlement Administrator to have a replacement check issued at no cost. Any such replacement check will only remain valid for the original 150-day period from the date the original check was issued.

15. How much will my payment be for?

Payments will vary depending on how much Eligible Concrete was poured on your Affected Property. As an example, assume you are the sole owner of an Affected Property with 15 cubic yards of Eligible Concrete. Also assume that, based upon the Proof of Ownership Forms timely submitted and the records reviewed, there are 18,000 cubic yards of Total Eligible Concrete, and assume the Net Settlement Amount is \$3,100,000. The Value Per Yard of Eligible Concrete in this hypothetical is \$172.22. Taking your Affected Property's 15 yards of Eligible Concrete multiplied by \$172.22, your Allocation Amount is \$2,583.30.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

Yes. The Court has appointed the lawyers and firms listed below as “Class Counsel,” meaning that they were appointed to represent all Class Members:

Michael J. Moore	Wade H. (“Trip”) Tomlinson
R. Timothy Morrison	Pope McGlamry, P.C.
Jay F. Hirsch	1200 6 th Avenue
Kimberly J. Johnson	Columbus, GA 31901
Courtney L. Mohammadi	(706) 324-0050
Pope McGlamry, P.C.	
3391 Peachtree Road, NE, Suite 300	Raymond L. Moss
Atlanta, GA 30326	Moss & Gilmore, LLP
(404) 523-7706	Atlanta, GA 30326
	(678) 381-8600

You will not be individually charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

The Court will decide how much Class Counsel should be paid. Class Counsel will ask the Court for attorneys’ fees, costs and expenses not to exceed a total of \$3.5 million or 35% of the Total Settlement Value, whichever is greater.

Class counsel will also request that \$25,000 be paid to each of the Named Class Representatives who helped the prosecution of this case on behalf of the whole Class.

EXCLUDING YOURSELF FROM THE SETTLEMENT

18. How do I get out of the Settlement?

If you don’t want a payment from the settlement, or if you want to keep the right to sue or continue to sue the Defendant on your own about the issues in this case, then you must take steps to get out. This is called excluding yourself – or is sometimes referred to as Opting-Out of the Class.

To exclude yourself from the Settlement, you must send a letter that includes the following:

- Your full name, address, and telephone number;
- The names and current addresses of any co-owners of the Affected Property;
- A statement saying that you want to be excluded from the Class;
- The case name and case number (*McGaffin et al. v. Argos USA LLC*, No. 4:16-cv-00104-LGW-GRS); and
- Your signature or the signature of a legally-authorized representative;

Your exclusion must be postmarked no later than **X, 2020** [45 days after Notice is mailed], to:

ARGOS 868 LITIGATION
C/O RUST CONSULTING INC. -6919
PO BOX 44
MINNEAPOLIS, MN 55440-0044

19. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up the right to sue the Defendant for the claims that the Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Class to continue your own lawsuit.

20. If I exclude myself from the Settlement, can I still get a payment?

No. You will not get any money if you exclude yourself from the Settlement.

OBJECTING TO THE SETTLEMENT

21. How do I tell the Court that I don't like the Settlement?

If you are a Class Member, you can Object to the Settlement or to requests for fees and expenses by Class Counsel. To Object, you must send a letter that includes the following:

- Your full name, address, and telephone number;
- The name, address, and telephone number of your attorney (if any);
- The factual and legal grounds for the objection(s);
- A statement indicating whether or not you intend to speak at the Settlement Fairness Hearing, which must also include information described more fully below;
- Evidence of your membership in the Class;
- Your signature or the signature of a legally-authorized representative;
- The signature of your attorney (if any);
- The case name and case number (*McGaffin et al. v. Argos USA LLC*, No. 4:16-cv-00104-LGW-GRS); and
- A specific list of any other objection made by you, as well as made by your attorney (if any), to any class action submitted to any court in the United States in the previous five years.

Your Objection must be postmarked no later than **X, 2020** [45 days after Notice is mailed], to:

Wade H. Tomlinson
Pope McGlamry, P.C.
3391 Peachtree Road, NE, Suite 300
Atlanta, GA 30326

R. Trent Taylor
McGuireWoods LLP
Gateway Plaza
800 Canal Street
Richmond, Virginia 23219

ARGOS 868 LITIGATION
C/O RUST CONSULTING INC -6919
PO BOX 44
MINNEAPOLIS, MN 55440-0044

If you are represented by an attorney, your Objection must provide the name, address, bar number and telephone number of your attorney. Your attorney must comply with all applicable laws and rules for filing pleadings and documents with the Court.

If you or your attorney want to appear and speak at the Fairness Hearing, your Objection must contain a detailed statement of the specific legal and factual basis for each and every objection; and a detailed description of any and all evidence that you may offer at the Fairness Hearing, including photocopies of any and all exhibits which you may introduce at the Fairness Hearing, and the names and addresses of any witnesses expected to testify. If you object, you agree to make yourself available to be deposed by any Party in the county of your residence within fourteen (14) days of the deadline to object as identified in this Notice.

22. If I Object and don't submit a Proof of Ownership Form can I still receive a payment?

No. If you Object and fail to timely submit a Proof of Ownership Form you will not receive a payment ("Allocation Amount"). Additionally, if you Object and do not timely submit a Proof of Ownership Form, you will get no payment, and you will give up your rights to ever sue the Defendant about the legal claims in this case.

23. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the Settlement. You can Object to the Settlement only if you do not exclude yourself from the Settlement. You can still submit a Proof of Ownership Form and participate in the settlement if you Object. Excluding yourself from the Settlement or Opting-Out is telling the Court that you don't want to be part of the Settlement. If you exclude yourself from or Opt-Out of the Settlement, you have no basis to Object to the Settlement because it no longer affects you.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you received this Notice in the mail, a Proof of Ownership Form was also automatically mailed to you. This Form is also available online at www.868concretesettlement.com. If you do not timely submit a Proof of Ownership Form to the Settlement Administrator, **you will not get any money from the Settlement**. If you do nothing in response to this Notice, and you do not timely Submit a Proof of Ownership Form, you will get no payment, and you will give up your rights to ever sue the Defendant about the legal claims in this case.

GETTING MORE INFORMATION

25. How do I get more information?

You can visit the website at www.868concretesettlement.com, where you will find answers to common questions about the Settlement and other information. If you still have questions, you can call 866-898-5095 toll-free or write to Argos 868 Litigation, c/o Rust Consulting Inc. -6919, P.O. Box 44, Minneapolis, MN 55440-0044.

EXHIBIT

B

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

JIM McGAFFIN and BECKY McGAFFIN)
DANIEL NUNN, and STEFANIE NUNN,)
)
Plaintiffs,)
v.)
ARGOS USA, LLC,)
)
Defendant.)
_____)

CIVIL ACTION FILE
NO. 4:16-cv-00104-LGW-GRS

**ORDER PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT AND CONDITIONALLY CERTIFYING
SETTLEMENT CLASS**

Plaintiffs have moved the Court for preliminary approval of a proposed settlement of this action (the “Settlement”) as set forth in the Settlement Agreement entered by the parties on March 5, 2020 (the “Settlement Agreement”), a copy of which is on file with the Court.

Pursuant to Fed. R. Civ. P. 23(e), the Court has reviewed the Settlement Agreement and other materials submitted by the parties and has concluded that preliminary approval of the Settlement is warranted and appropriate. Accordingly, **IT IS HEREBY ORDERED:**

A. Class Certification

1. Pursuant to Fed. R. Civ. P. 23(e), the Court preliminarily certifies, solely for purposes of effectuating the Settlement, the following Settlement Class under Fed. R. Civ. P. 23:

All Owner(s) of ascertainable Affected Property (any Residential Property in the State of Georgia or the State of South Carolina with 868 concrete as Flatwork thereon) on March 5, 2020 with at least one yard of Eligible Concrete (the amount of 868 concrete delivered to an Affected

Property (expressed in cubic yards) as shown on Argos Delivery Tickets and public records produced during the Litigation, minus any Ineligible Concrete). Excluded from the Class are:

- Owners of an Affected Property which property has been the subject of a settlement agreement with Argos as to 868 concrete;
- Owners of an Affected Property where 868 was poured only for Footers, or all 868 concrete has been Removed and Replaced from the property by Argos and/or at Argos' expense;
- Owners of an Affected Property who are Argos employees, the spouse of an Argos employee, or child of an Argos employee;
- Owners of an Affected Property who are judicial officers serving on the U.S. District Court for the Southern District of Georgia or on the U.S. Court of Appeals for the Eleventh Circuit; or
- Commercial properties where 868 concrete was poured.

2. The Court preliminarily finds for settlement purposes only that: (a) the members of this Settlement Class are so numerous that joinder of all of them in the action is impracticable; (b) there are questions of law and fact common to the Settlement Class that predominate over any individual questions; (c) the claims of the named Plaintiffs Jim and Becky McGaffin and Daniel and Stefanie Nunn are typical of the claims of the Settlement Class Members; (d) common questions of law and fact exist and predominate over questions affecting only individual Settlement Class Members; and (e) the named Plaintiffs and their counsel will fairly and adequately represent and protect the interests of all the Settlement Class Members.

3. The Court designates Jim McGaffin, Becky McGaffin, Daniel Nunn and Stefanie Nunn as representatives of the Settlement Class, and it designates the following attorneys as

counsel for the Settlement Class (“Class Counsel”): Wade H. Tomlinson, Michael J. Moore, R. Timothy Morrison, Jay F. Hirsch, Kimberly J. Johnson, and Courtney L. Mohammadi and the firm of Pope, McGlamry, P.C., 1200 6th Avenue, P.O. Box 2128, Columbus, Georgia 31901; and Raymond L. Moss and the firm of Moss & Gilmore, LLP. The Court designates Rust Consulting as the Claims Administrator.

4. The Court certifies this Settlement Class for purposes of providing notice of this Settlement and effectuating the Settlement only. If the Court ultimately does not approve the Settlement, then this preliminary class certification will be vacated without prejudice.

B. Preliminary Approval of Settlement

5. The Court preliminarily approves the Settlement as being fair, adequate and reasonable as to the Settlement Class Members, subject to further consideration at a final hearing (the “Fairness Hearing”) to be held before this Court at ____ a.m./p.m. on the ____ day of _____, 2020, at the United States District Court, Southern District of Georgia, Savannah Division, 125 Bull Street, Savannah, Georgia 31401. At the Fairness Hearing, the Court shall conduct an evidentiary hearing and determine: (i) whether the proposed Settlement of this action on the terms and conditions of the Settlement Agreement is fair, adequate and reasonable as to the Settlement Class Members and should be approved by the Court; (ii) whether the Court shall enter a Final Order and Judgment governing the procedure and dismissal with prejudice as agreed upon by the parties; (iii) whether the Class Counsel should be awarded attorneys’ fees, litigation costs and expenses and the amount thereof; and (iv) whether the Plaintiffs should be awarded any Incentive Awards and the amounts thereof.

6. The Court approves, as to form and content, the proposed mailing Notice that is provided to the Court in connection with Plaintiffs’ Motion for Preliminary Approval, which

should be mailed no later than 30 days after the entry of this Order preliminarily approving the Settlement, and the Reminder Notice proposed to be mailed 15 days prior to the date on which opt-outs, objections and Proof of Ownership Forms must be mailed. The Court finds that this program of individual mailed notice, supplemented by the Internet posting proposed by the parties, meets the requirements of Rule 23 and of constitutional due process, and is the best notice practicable under the circumstances. The Court directs that prior to the mailing of the Notice that the Settlement Administrator complete the Notice, as necessary and consistent with the timing provisions of this Order and the Settlement Agreement, so that Settlement Class Members are apprised of relevant deadlines in a Month, Day, Year format.

7. Within thirty (30) days of the entry of this Order, and after finalization of the list of the members of the Settlement Class, the Settlement Administrator shall send a copy of the Notice via first class U.S. mail to members of the Settlement Class. By that same date, the Settlement Administrator shall also post the Notice, this Order, the Settlement Agreement and other agreed upon documents to the settlement internet website.

8. The Settlement Administrator shall file an affidavit with the Court attesting that it has complied with Paragraph 7 of this Order within ten (10) business days of such compliance.

C. Right to Opt-Out

9. Any member of the Settlement Class may request to be excluded from the Settlement and Settlement Class. To be excluded, the Settlement Class Member must comply with the procedure set forth in the approved Notice, including sending a letter that contains all of the following:

- Settlement Class Member name, current address, and phone number;
- The names and current addresses of any co-owners of the Affected Property;

- The name of the lawsuit, *McGaffin et. al. v. Argos USA LLC*, No. 4:16-cv-00104-LGW-GRS;
- A clear and unqualified statement specifying your request to be excluded from the Class; and
- Settlement Class Member's signature or the Legally Authorized Representative of the Class Member

That request must be in writing and mailed or delivered to the Settlement Administrator:

ARGOS 868 LITIGATION
C/O RUST CONSULTING INC. - 6919
PO BOX 44
MINNEAPOLIS, MN 55440-0044

The request for exclusion must be postmarked no later than the date set forth in the Notice for requesting exclusion. Settlement Class Members who validly and timely request to be excluded in accordance with this Order will thereafter be excluded from the Settlement Class and the Settlement, will not receive any benefits of the Settlement and will not be bound by the Settlement or the dismissal of the Action pursuant to the Settlement. If a request for exclusion does not comply with all of the provisions of this Order, then it shall not be effective and the person submitting such an ineffective request shall for all purposes be deemed a member of the Settlement Class.

10. At or before the Fairness Hearing, the Settlement Administrator shall file with the Court a declaration identifying those Settlement Class Members from whom valid and timely requests for exclusion were received. If the Settlement is approved by the Court, Settlement Class Members who have not validly and timely requested exclusion from the Settlement Class will be bound by all terms of the Settlement, the dismissal of the action and all other orders or actions of

the Court affecting the Settlement Class, whether or not the Settlement Class Member has objected to the Settlement.

D. Right to Participate, Comment or Object

11. Any Settlement Class Member may enter an appearance in the Action, at his or her own expense, through counsel of his/her choice. Until and unless they enter such an appearance, all Settlement Class Members are represented by Class Counsel.

12. Any Settlement Class Member who wishes to object to any term of the proposed Settlement must file with the Court a written objection. Such objection must comply with the procedure set forth in the approved Notice. A Settlement Class Member who objects to the Settlement may, but need not, retain counsel and enter an appearance through counsel, all at the Settlement Class Member's own expense. All objections to the Settlement must be filed with and received by the Clerk of United States District Court, Southern District of Georgia, Savannah Division, 125 Bull Street, Savannah, Georgia 31401; mailed to Settlement Administrator; and mailed to the attorneys at the addresses as set forth below. Such objections must be postmarked no later than the date set forth in the notice for filing objections. Objections must be served upon Class Counsel at:

Wade H. Tomlinson
Pope McGlamry, P.C.
3391 Peachtree Road, NE, Suite 300
Atlanta, GA 30326

R. Trent Taylor
McGuireWoods LLP
Gateway Plaza
800 Canal Street
Richmond, Virginia 23219

13. In order to be a proper, valid and effective objection, an objection shall contain all of the following:

- The objector's full name, address, and telephone number;
- The objector's name, address, and telephone number of your attorney (if any);
- The factual and legal grounds for the objection(s);
- A statement indicating whether or not you intend to speak at the Settlement Fairness Hearing, which must also include information described more fully below;
- Evidence of the objector's membership in the Class;
- The objector's signature or the signature of a legally-authorized representative of the objector;
- The signature of the objector's attorney (if any);
- The case name and case number (*McGaffin et al. v. Argos USA LLC*, No. 4:16-cv-00104-LGW-GRS); and
- A specific list of any other objection made by the objector, as well as made by the objector's attorney (if any), to any class action submitted to any court in the United States in the previous five years.

If a Class Member is represented by an attorney, he/she must provide the name, address, bar number and telephone number of the objecting Class Member's counsel. The attorney must comply with all applicable laws and rules for filing pleadings and documents in this Court.

If an objecting Class Member (or his/her attorney) wants to appear and speak at the Fairness Hearing, a Notice of Intent to Object must contain a detailed statement of the specific legal and factual basis for each and every objection; and a detailed description of any and all evidence the objector may offer at the Fairness Hearing, including photocopies of any and all exhibits which the objector may introduce at the Fairness Hearing, and the names and addresses of any witnesses expected to testify. All objectors shall make themselves available to be deposed by any Party in

the county of the objector's residence within fourteen (14) days of service of his, her, or its timely written objection.

14. Settlement Class Members who do not timely object in compliance with this Order and the approved Notice waive all objections to the Settlement and will not be allowed to object at the Fairness Hearing or have any right to appeal any final approval of the Settlement.

15. Settlement Class Members may not object to the Settlement if they have excluded themselves from the Settlement Class as described in Paragraphs 9 and 10 above. Settlement Class members may not exclude themselves after the deadline specified above whether or not they have objected to the Settlement.

16. Settlement Class Members who want to receive monetary payment from the Settlement Fund shall deposit/cash the check received from the Settlement Administrator no later than 150 days from the date issued. After that time, the checks will be void. Any Settlement Class Member that does not timely deposit/cash their check shall not be entitled to any proceeds from the Settlement Fund.

E. Final Fairness Hearing and Briefing Schedule

17. The Final Fairness Hearing shall be held on _____, 2020 at ____ AM/PM, at the United States District Court, Southern District of Georgia, Savannah Division, 125 Bull Street, Savannah, Georgia 31401.

18. No later than the ten days prior to the Fairness Hearing, the Settlement Class/Class Counsel shall file a Motion for Final Approval of the Settlement with a supporting Brief and other materials.

19. No later than ten days prior to the Fairness Hearing, the Settlement Class/Class Counsel shall file a Motion for any class representative/named plaintiffs incentive awards. Argos

has agreed not to object to any request for an incentive award not exceeding \$25,000.00 per named class representative.

20. No later than ten days prior to the Fairness Hearing, the Settlement Class/Class Counsel may file a Motion seeking fees, costs and expenses relating to any of the claims, counts, allegations or causes of action asserted in the Complaint. Argos has agreed not to object to any request for attorney's fees and expenses not exceeding \$3,500,000.00 or 35% of the Total Settlement Value, whichever is greater.

21. The Motions filed by Plaintiffs described in paragraphs 18-20 shall be posted to the settlement website within five business days of filing.

F. Other Provisions

22. This Order is intended to be consistent with the provisions of the Settlement Agreement and the Settlement Agreement is incorporated herein. The Court retains exclusive jurisdiction over the action to consider and resolve all matters arising out of or connected with the Settlement.

23. The Court stays any further discovery in this Action.

24. The Court enjoins any further actions by or on behalf of Settlement Class Members relating to the subject matter of the Settlement Agreement, pending the Fairness Hearing.

25. The Settlement Administrator will complete the Notice attached hereto as Exhibit A, as necessary, to provide the address for the website concerning the Settlement, the automated toll free number to answer frequently asked questions, the Settlement Administrator's address, and any other pertinent information, including dates.

26. In the event that the Settlement does not receive Final Approval as defined in the Settlement Agreement, or the Settlement Agreement is terminated for any other reason, then the

following shall apply:

(a) All orders and findings entered in connection with the Settlement, including this Order, shall become null and void and of no further force and effect;

(b) The Settlement, Settlement Agreement and all drafts, negotiations, discussions, and documentation relating thereto shall become null and void, and shall not be offered or received in evidence, or used or referred to for any purpose, in this action or in any other proceeding;

(c) The parties shall be restored to their respective positions as they existed immediately before execution of the Settlement Agreement. In such case, Plaintiffs shall be free to pursue any available claim, and the Defendant shall be free to assert any available claims or defenses; and

(d) The action shall otherwise proceed as further ordered by the Court.

SO ORDERED, this ___ day of _____, 2020.

HONORABLE R. STAN BAKER
U.S. DISTRICT JUDGE

EXHIBIT

C

ARGOS 868 CONCRETE CLASS ACTION
PROOF OF OWNERSHIP FORM

CLASS ACTION SETTLEMENT

GENERAL INSTRUCTIONS

1. TO RECEIVE A BENEFIT FROM THIS SETTLEMENT, YOU MUST PROVIDE ALL OF THE INFORMATION BELOW, THE REQUESTED PROOF OF RESIDENCY, AND SIGN THIS PROOF OF OWNERSHIP FORM
2. **YOUR PROOF OF OWNERSHIP FORM MUST BE POSTMARKED AND/OR SUBMITTED ONLINE BY [REDACTED], 2020 TO:**

Argos 868 Concrete Class Action Settlement Administrator
c/o [CA address,]

or submitted to [www.\[REDACTED\].com](http://www.[REDACTED].com)

3. This Proof of Ownership Form is directed to all Settlement Class Members as defined in the attached Notice.
4. IF YOU ARE NOT A SETTLEMENT CLASS MEMBER OR IF YOU, OR SOMEONE ACTING ON YOUR BEHALF, FILED A REQUEST FOR EXCLUSION FROM THE SETTLEMENT CLASS, DO NOT SUBMIT A PROOF OF OWNERSHIP FORM. YOU MAY NOT, DIRECTLY OR INDIRECTLY, PARTICIPATE IN THE SETTLEMENT IF YOU ARE NOT A SETTLEMENT CLASS MEMBER. THUS, IF YOU FILE A VALID REQUEST FOR EXCLUSION IN A TIMELY MANNER, ANY PROOF OF OWNERSHIP FORM THAT YOU SUBMIT, OR THAT MAY BE SUBMITTED ON YOUR BEHALF, WILL NOT BE ACCEPTED.
5. It is important that you completely read the Class Notice that accompanies this Proof of Ownership Form and the Settlement Agreement. The Class Notice and Settlement Agreement contain the definitions of many of the defined terms (which are indicated by initial capital letters) used in this Proof of Ownership Form. By signing and submitting this Proof of Ownership Form, you will be certifying that you have read the Class Notice and Settlement Agreement, including the terms of the releases made by you and the other Settlement Class Members. Your Proof of Ownership Form may be rejected if you do not check the box that says you have read the Class Notice and Settlement Agreement.
6. You are required to submit copies of genuine and sufficient documentation in response to the requests contained in this Proof of Ownership Form. IF SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN COPIES OR EQUIVALENT DOCUMENTS TO SUPPLY IN RESPONSE TO THESE REQUESTS. THE LACK OF DOCUMENTATION MAY RESULT IN REJECTION OF YOUR FORM AND LOSS OF ANY RIGHT TO RECEIVE PAYMENT FROM THE SETTLEMENT FUND. DO NOT SEND ORIGINAL DOCUMENTS. KEEP A COPY OF ALL DOCUMENTS THAT YOU SEND TO THE SETTLEMENT ADMINISTRATOR. Any documents you submit with your Proof of Ownership Form will not be returned.
7. Submission of this Proof of Ownership Form does not guarantee that you will get a share of the Settlement Fund. If the Court does not approve the proposed settlement, there will be no Settlement Fund or distribution from it. If the Court does approve the settlement, the distribution of the Settlement Fund will

be governed by the procedures set forth in the Settlement Agreement or such other plan of allocation as the Court may approve.

8. Only one Proof of Ownership Form should be submitted for all persons who were Owners of an Affected Property on March 5, 2020. The Owner submitting the Form must provide the verification documents in Step 2 below. The Owner submitting the Form will also need to sign under penalty of perjury in Step 3 below. If this Proof of Ownership Form is timely and properly completed and submitted to the Settlement Administrator, and then approved by the Settlement Administrator, a check will be issued in the names of all co-owners.
9. Checks will be issued approximately 30 days after the Court's approval of the settlement becomes final. You will have 150 days from the date of the check to cash it. Any uncashed checks after that period will become null and void and you or any other Settlement Class Member who fails to timely cash such a check will forever forfeit any claim to receiving any payment from the Settlement Fund. If the original check is lost or destroyed before it is cashed, you can request a replacement check from the Settlement Administrator, but you will still only have 150 days from the date of the ORIGINAL check to cash the replacement check.
10. Type or print legibly in blue or black ink.

0000000065498

Robert Sample
123 Main St
Anytown GA 12345

<p>If the pre-printed mailing address to the left is not correct, check this box and provide the correct address: address: _____ city: _____ state: ____ zip: _____</p>
--

STEP 1: CLASS MEMBER AND PROPERTY INFORMATION

1. Address of Affected Property¹: 123 Main St, Anytown GA 12345
2. Based on property records, the following individuals or entities are listed as owners of this property on March 5, 2020:
 Robert Sample
 Jane Sample
3. If the information in item #2 is incorrect, please identify all persons or entities who owned or co-owned the Affected Property on March 5, 2020:²

4. Name of Owner Submitting this Form: _____
5. Your Phone Number: _____
6. Your Email Address: _____

¹ “Affected Property” means any real property in the State of Georgia or the State of South Carolina containing a Residential Property with 868 concrete as Flatwork thereon.

² Additional verification documents may be required to confirm the identity and ownership of any owners or co-owners listed in response to item #3.

STEP 2. VERIFICATION DOCUMENTS

7. You must attach a copy of at least one of the following documents to verify your ownership of the Affected Property on March 5, 2020:
- Government-Issued Identification Card showing address that matches the Affected Property address;
 - Utility Bill showing your name and the address of the Affected Property address;
 - Property Tax Bill showing your name and the address of the Affected Property; or
 - Property Deed showing your name and the address of the Affected Property.

STEP 3. SIGN AND DATE YOUR OWNERSHIP FORM

I hereby certify under penalty of perjury that the above and foregoing is true, and I believe in good faith that I owned fee title to the Affected Property listed above on March 5, 2020.

I certify that I am not a judicial officer serving on the U.S. District Court for the Southern District of Georgia or on the U.S. Court of Appeals for the Eleventh Circuit. I certify I am not an Argos employee nor am I married to an Argos employee or a child of an Argos employee.

I also certify that I have read the Notice accompanying this Proof of Ownership Form and understand the referenced Settlement Agreement, which I have had the opportunity to review.

Print Owner's Name: _____

Owner' Signature

Date