

LATONIA D. WILSON
 CLERK DISTRICT COURT
 FILED
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 NOV 15 2010
 GALVESTON COUNTY, TEXAS
 BY *Latonia D. Wilson*
 Deputy

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NO. 09-CV-0421

**HUBERT W. WILSON, on behalf of
 themselves and all similarly situated
 persons and entities that are citizens
 of the State of Texas**

VS.

**TEXAS WINDSTORM INSURANCE
 ASSOCIATION**

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IN THE DISTRICT COURT OF

GALVESTON COUNTY, TEXAS

56TH JUDICIAL DISTRICT

ORDER OF FINAL APPROVAL AND FINAL JUDGMENT

THIS MATTER, having come before the Court for hearing, pursuant to Orders of this Court, dated July 21, 2010 and August 27, 2010, on the request of plaintiff and Class Representative Hubert W. Wilson on behalf of himself and all others similarly situated and defendant Texas Windstorm Insurance Association ("TWIA" for approval of the Settlement set forth in the Class Action Settlement Agreement dated August 5, 2010, as amended, (the "Settlement Agreement"), and due and adequate notice having been given to the Settlement Class (as defined in the Settlement Agreement) as required in the August 27, 2010 Order, and the Court having considered all papers filed and proceedings had herein, and otherwise being fully informed in this matter and good cause appearing therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. This Order incorporates by reference the definitions in the Settlement Agreement, and all capitalized terms used herein that are not defined herein shall have the same meanings as set forth in the Settlement Agreement.

2. The August 27, 2010 Order directed TWIA to give notice of the proposed Settlement and the final approval or fairness hearing ("Fairness Hearing") to members of the

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Settlement Class. The affidavit filed by TWIA before the Fairness Hearing demonstrates that the Court's directives regarding notice have been followed. The Court finds that the notice given to the Settlement Class of the Settlement and the other matters set forth in the Settlement Agreement was the best notice practicable under the circumstances, including the proposed Settlement, to all persons entitled to such notice, and said notice fully satisfied the Requirements of Tex. R. Civ. P. 42 and due process.

3. Following the Fairness Hearing and all pleadings, evidence, and argument submitted in connection therewith, and the record as a whole, the Court grants Final Approval of the Settlement Agreement.

4. The Court finds that the Settlement was negotiated at arm's length by Plaintiffs' counsel and TWIA's counsel. The Settlement is reasonable in light of the uncertainty as to whether the Class Members could prevail on their causes of action against TWIA, the risks and cost of litigation, and the value of claims foregone. The terms and conditions of Settlement are no less favorable to the Class Members than comparable arms-length terms and conditions that would have been agreed to by unrelated parties under similar circumstances.

5. The Settlement Class is defined as:

All Texas Windstorm Insurance Association policyholders with slab claims (and any assignees of such claims) that were the result of Hurricane Ike on September 12-13, 2008. "Slab claims" are defined as those Hurricane Ike residential claims in which nothing of the building remained after Hurricane Ike except perhaps some or all of the pilings or concrete slab, and which were adjusted using Spellman loss ratios, LNSS loss functions, or site specific engineering analysis. Notwithstanding the foregoing, the Settlement Class excludes: (1) any Person with a Slab Claim who has released TWIA by way of a release signed after June 18, 2010; (2) any Person with a Slab Claim who has released TWIA by way of a release signed before June 19, 2010 and who was represented by counsel at the time the release was signed; (3) any Person with a Slab Claim who has brought a State Office of Administrative hearings proceeding against TWIA in which such Person was represented by counsel and in which a Proposal for Decision has

issued, and (4) any Person with a Slab Claim who did not have any ownership interest in his Slab Claim as of August 5, 2010.

6. The Class Claims are the following claims on behalf of the members of the Settlement Class: all claims alleged in the Amended Petition on file in this matter.

7. The Class Representative for purposes of the Settlement and the Settlement Class is Hubert W. Wilson, who was previously appointed to serve as Class Representative for settlement purposes only by earlier orders of the Court.

8. The Court finds that certification of the Settlement Class is proper under Tex. R. Civ. P. 42(b)(3). The Settlement Class satisfies all of the requirements under Rule 42(b)(3) in that numerosity, typicality, commonality, and adequacy are established as to the Settlement Class. In addition, the Court finds that a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

9. Furthermore, pursuant to Tex. R. Civ. P. 42(e)(1)(A), the Court hereby approves the Settlement as set forth in the Settlement Agreement, finds that said Settlement is, in all respects, fair, reasonable and adequate with respect to the Settlement Class, and directs that the Settlement be consummated in accordance with the terms and conditions set forth in the Settlement Agreement.

10. The Court finds that the payments to the Class Members as set forth in the Settlement Agreement are fair, reasonable and adequate. Said payments shall be made by TWIA to all Class Members that have filed a valid Claim Form, ~~beginning on December 15, 2010 until~~ *IN ACCORDANCE WITH* ~~the Settlement Agreement,~~ *MSJ* ~~all valid claims are paid.~~ *SEC*

11. The members of the Settlement Class who timely and validly requested exclusion from the Settlement Class ("Opt-Outs") are identified in Exhibit "1" hereto. With the exception of Brooks Porter, trustee, the Opt-Outs are not bound by this judgment; are not Class Members,

and shall not receive any payment or other benefits pursuant to the Settlement Agreement. This judgment shall not bar any Opt-Out from prosecuting any individual claim against TWIA. All Class Members are bound by this judgment and by the terms and conditions of the Settlement Agreement. In the case of Brooks Porter, trustee, he shall be treated as an Opt-out with respect to his claims related to 101 Thunder Road, Surfside Beach, Texas 77541, and he shall be treated as a Class Member with respect to his claims related to 809 Beach Drive, Surfside Beach, Texas 77541. The Court also finds that there are no objections to this settlement by any Class Member.

12. As of the Effective Date of Settlement (~~i.e., December 15, 2010~~), Named Plaintiff and each Class Member absolutely and unconditionally releases, acquits, and forever discharges TWIA from all Claims that Named Plaintiff and the Class Members ever had, now have or hereafter may have ("Released Claims"), covenants not to sue TWIA with respect to any such Released Claims, and they shall be, and hereby are, permanently barred and enjoined from instituting, commencing, or prosecuting any Released Claims in any forum against TWIA. The releases and injunctions in this Order shall have the same and no greater or lesser force and effect than the releases and injunctions provided for in the Agreement.

13. TWIA shall pay \$5,000 to Hubert W. Wilson ^{within 10 days of} on the Effective Date of the Settlement (~~i.e., December 15, 2010~~). Said payment shall be sent to Weller, Green, Toups & Terrell, L.L.P in trust for Mr. Hubert W. Wilson. In addition, the Court finds that the two Class Representatives, (Lewis Burkart and Stephen Earnhart) that served in Case No. 09-CV-0998; *Lewis Burkart vs. Texas Windstorm Insurance Association*; in the 212th Judicial District Court of Galveston County, Texas, which was non-suited and joined with this case, are deserving of the \$5,000.00 incentive award and hereby awards Lewis Burkart and Stephen Earnhart, an incentive

award of \$5,000.00 each, to be paid as additional expenses from Plaintiff's award of attorney's fees and expenses herein.

14. TWIA shall also pay to Weller, Green, Toups & Terrell, L.L.P., in Trust for All Class Counsel, the sum of \$11,500,000 as attorneys fees and expenses. The Court finds that said fees are reasonable under Rule 42(i) of the Tex. R. Civ. P. and that the lodestar presented by Class Counsel is well below the range allowed by Rule 42(i) of the Tex. R. Civ. P. and the Court hereby approves and hereby awards to all Class Counsel the sum of \$11,500,000.00 for fees and expenses. Said payment shall be made by TWIA ^{within 10 days of SD} on the Effective Date of the Settlement (~~i.e. December 15, 2010~~). *MAF MSJ SD*

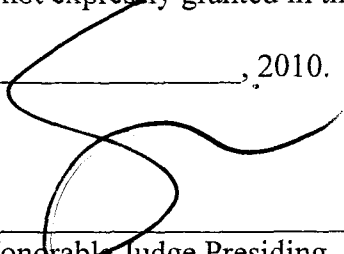
15. Without affecting the finality of this judgment, the Court retains continuing and exclusive jurisdiction to resolve any disputes or challenges that may arise as to the performance, termination, or enforcement of the Settlement Agreement, acceptance or rejection of any claims filed in the Class except as provided otherwise in the Settlement Agreement.

16. The Court will also allow Class Counsel ^{alone} and ~~Defense Counsel~~ to make further contact by letter ~~or phone~~ to all Class Members who have not filed a claim, to remind said Class Members of the deadline to file claims of December 15, 2010 and to offer assistance if needed. The letter attached as Exhibit "2" is approved to be mailed to all Class Members by Rust Consulting on or about November 16, 2010. *MAF MSJ SD*

17. Plaintiff and Class Representative Hubert W. Wilson and all Class Members shall take nothing by reason of this suit against TWIA, other than the class relief in the Settlement Agreement and the awards made in this Order, and this case is dismissed with prejudice. All costs of court shall be borne by the party that incurred them.

18. The parties are denied all relief not expressly granted in this judgment.

SIGNED this 15 day of NOV, 2010.



Honorable Judge Presiding

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EXHIBIT '1'

TWIA Exclusion Requests

	Name	Insured Property Address	Mailing Address	Date Rec'd
1.	Michael A. Phelan II, Trustee	Spindletop Bayou Winnie, TX 77665	P.O. Box 1390 Beaumont, TX 77704-1390	9/13/2010
2.	Robert L. & Paula Pearson	984 Crane Lane Crystal Beach, TX 77650 988 Crane Lane Crystal Beach, TX 77650	9631 Hwy. 421 Kountze, TX 77625	9/21/2010
3.	Nancy & Stephen Sellers	944 W. Verdia Crystal Beach, TX 77650	1495 Willowbend Dr. Vidor, TX 77662	9/21/2010
4.	Cullen White	2002 Crestview Crystal Beach, TX 77650	3195 Dowlen, Ste. 101 Beaumont, TX 77706	9/21/2010
5.	Allen Riels/Ashley Causey, Executor	980 S. Redfish Crystal Beach, TX 77650	6845 Rosewood Beaumont, TX 77713	9/21/2010
6.	Malcom Matthews	955 Mary Lynn Crystal Beach, TX 77650	3306 Montrose St. Orange, TX 77632	9/21/2010
7.	William Davis	850 Kahla Dr. Crystal Beach, TX 77650	76 Hickory Drive Pottsboro, TX 75076	9/28/2010
8.	Joe J. Alesi and Rita C. Alesi	1627 Dick Bay San Leon, TX 77539	301 25 th St. San Leon, TX 77539	9/28/2010
9.	Joel & Dorothy Reynolds	2891 Tropicana Crystal Beach, TX	1648 East Drive Beaumont, TX 77706	9/28/2010
10.	Brooks Porter, Trustee	101 Thunder Road Surfside Beach, TX 77541	10763 Valley Hills Houston, TX 77071	10/4/2010

	Name	Insured Property Address	Mailing Address	Date Rec'd
11.	Wayne Stephenson	1315 Sunrise Dr. Crystal Beach, TX 77650	P.O. Box 359 Jasper, TX 75951-0033	10/7/2010
12.	Gerald & Sandra Vertucci	1414 Highway 87 Gilchrist, TX	12630 Westmere Dr. Houston, TX 77077	10/8/2010
13.	Robert & Judith Jones	125 Linda Street Smith Point, TX	7906 Delynn St. Baytown, TX 77521	10/15/2010
14.	Dee's Family Partnership	12837 Bermuda Beach Dr. Galveston, TX 12519 East Buena Vista Dr. Galveston, TX 23114 Gulf Drive Galveston, TX	19939 Galling Court Katy, TX 77449	10/15/2010
15.	Orie Ann Harris	887 Alberdie Dr. Crystal Beach, TX 77650	3316 E. Orange Pearland, TX 77581	10/18/2010
16.	Stephen M. Driscoll	835 Alpha Rd. Crystal Beach, TX 77650	2608 Esther Ave. Pasadena, TX 77502	10/18/2010
17.	John M Kohlman	2026 Crestview Crystal Beach, TX	2012 Park St. Beaumont, TX 77701	10/18/2010
18.	Jim O. Meeks	2401 Sand Drift Crystal Beach, TX 77650	1408 N. 22 nd St. Nederland, TX 77627	10/18/2010
19.	James & Donna Swain	2941 Lakeside Drive Crystal Beach, TX 77650	1820 Rikisha Lane Beaumont, TX 77706	10/18/2010
20.	Mark & Denise Davidson	1986 Avenue D Crystal Beach, TX 77650	P.O. Box 221 Winnie, TX 77665	10/18/2010

	Name	Insured Property Address	Mailing Address	Date Rec'd
21.	Glenda W. Maynard	846 Miami, Caplen	3605 Verda Vista Ct. W. Alledo, TX 76008-3679	10/19/2010
22.	Scott & Catherine Rush	983 Driftwood Crystal Beach, TX 77650	P.O. Box 1767 Crystal Beach, TX 77650	10/19/2010
23.	Michael & Karen Doyle	12921 Bermuda Beach Drive Galveston, TX 77554	2507 Kings Forest Drive Kingwood, TX 77339	10/19/2010
24.	Randolph Paul Thummel	2372 Sand Drift Lane Crystal Beach, TX 77650	1323 Friarcreek Lane Houston, TX 77055	10/25/2010
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EXHIBIT '2'

WELLER, GREEN, TOUPS & TERRELL, L.L.P.

Attorneys at Law

MITCHELL A. TOUPS, LTD.*+
B. ADAM TERRELL***
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STEVEN C. TOUPS, P.C.

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EDWARD H. GREEN*
Of Counsel

GEORGE A. WELLER
(1911-1986)

*BOARD CERTIFIED
PERSONAL INJURY TRIAL LAW AND CIVIL TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

+BOARD CERTIFIED CIVIL TRIAL LAW
NATIONAL BOARD OF TRIAL ADVOCACY

**BOARD CERTIFIED PERSONAL INJURY TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

Direct Fax: (409) 832-8577

November 15, 2010

Dear Class Member:

On November 15, 2010, Judge Susan Criss granted Final Approval to the Class Action Settlement regarding "Slab Claims" for which you are a Class Member. To date, the claims facility has not received a claim form from you. We, therefore, want to remind you that the deadline to file your claim form is **December 15, 2010**. If you need any help in getting your claim on file or need another copy of the forms, you can call the office of Mitchell A. Toups, lead counsel for the class, at 1-800-835-0019.

The claim forms are very simple and should be post-marked on or before **December 15, 2010**. Now that this Settlement has been granted Final Approval by the Court, we anticipate that the Defendant, Texas Windstorm Insurance Association, will start making payments as early as December 15, 2010. Please do not let this important deadline slip by without filing your claim form.

Again, if you need any help please contact Mitchell A. Toups at 1-800-835-0019.

Sincerely,

Mitchell A. Toups

