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7 Attorneys for Plaintiffs and all those similarly situated.

8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 JERRY L. RICHARDS; and BETTY LOU  
11 FIELD, individually and on behalf of all persons  
12 similarly situated,

13 Plaintiffs,

14 v.

15 DEL WEBB COMMUNITIES, INC., an  
16 Arizona corporation; DEL WEBB HOME  
17 CONSTRUCTION, INC., an Arizona  
18 corporation; PULTE HOMES, INC., a Michigan  
19 corporation; PULTE HOME CORPORATION,  
20 a Michigan corporation; PULTEGROUP, INC.,  
21 a Michigan corporation; and DOES 1-100,  
inclusive,

22 Defendants.

Case No.:

**CLASS ACTION COMPLAINT FOR  
BREACH OF IMPLIED  
WARRANTY OF WORKMANSHIP  
AND HABITABILITY**

23 Plaintiffs JERRY L. RICHARDS and BETTY LOU FIELD, on behalf of themselves  
24 and all others similarly situated, by and through their undersigned counsel, bring this  
25 Complaint in class action and complain as follows:

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1 I.

2 THE PARTIES

3 1. Plaintiffs are the owners of single family homes located in a development  
4 known as Sun City Grand in the City of Surprise, County of Maricopa, State of Arizona  
5 (“Project”). They bring this action individually and, as class representatives, on behalf of  
6 all persons similarly situated, pursuant to *Federal Rule of Civil Procedure 23* and other  
7 applicable laws. Each Plaintiff class member is a member of that group of individuals  
8 and/or entities who currently own homes within the Project. A list of Plaintiffs is attached  
9 as Exhibit 1.  
10

11  
12 2. Plaintiffs seek damages from Defendants, and each of them, for defects in the  
13 selection, construction, assembly, and installation of Uponor (formerly Wirsbo, Inc.)  
14 plumbing systems in the homes in the Project. Among other things, Defendants selected  
15 and installed Uponor brass plumbing fittings in the plumbing systems in the homes in the  
16 Project. Those brass plumbing fittings have undergone, and continue to undergo, a process  
17 known as dezincification, resulting in compromised plumbing systems that have leaked and  
18 are prone to leaking and other deterioration.  
19  
20

21 3. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
22 Del Webb Communities, Inc., an Arizona corporation, authorized and doing business in  
23 Maricopa County, Arizona, participated in the selection, construction, assembly, and  
24 installation of Uponor plumbing systems in the homes in the Project.  
25

26 4. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
27 Del Webb Home Construction, Inc., an Arizona corporation, authorized and doing business  
28

1 in Maricopa County, Arizona, participated in the selection, construction, assembly, and  
2 installation of Uponor plumbing systems in the homes in the Project.

3  
4 5. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
5 Pulte Homes, Inc., a Michigan corporation, authorized and doing business in Maricopa  
6 County, Arizona, participated in the selection, construction, assembly, and installation of  
7 Uponor plumbing systems in the homes in the Project.

8  
9 6. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
10 Pulte Home Corporation, a Michigan corporation, authorized and doing business in  
11 Maricopa County, Arizona, participated in the selection, construction, assembly, and  
12 installation of Uponor plumbing systems in the homes in the Project.

13  
14 7. Plaintiffs are informed and believe, and based thereon allege, that Defendant  
15 PulteGroup, Inc., a Michigan corporation, as the successor-in-interest of Defendant Pulte  
16 Homes, Inc. and/or of Defendant Pulte Home Corporation, authorized and doing business in  
17 Maricopa County, Arizona, participated in the selection, construction, assembly, and  
18 installation of Uponor plumbing systems in the homes in the Project.

19  
20 8. Plaintiffs are ignorant of the true names and capacities of the parties sued as  
21 Does 1-100, inclusive, and therefore sue them under fictitious names. Upon learning their  
22 true names and capacities, Plaintiffs will amend the Complaint to reflect the same.  
23 Plaintiffs allege that Does 1-100, inclusive, are responsible in some manner for the  
24 occurrences herein alleged and that Plaintiffs' damages as herein alleged were proximately  
25 caused by such occurrences.  
26

27 9. Plaintiffs allege that Defendants, including Does 1-100, were engaged and did  
28

1 engage in the selection, construction, assembly, and installation of Uponor plumbing  
2 systems in the homes in the Project and were responsible under the law of contract to  
3 comply with minimum building standards, including, but not limited to, the provisions of  
4 the adopted building code, and were responsible to exercise direct supervision and control  
5 over the operations necessary to secure full compliance with all building, safety and health  
6 laws, rules and regulations.

8         10. Plaintiffs allege that at all relevant times, each and every Defendant was  
9 acting as the duly authorized agent of each and every other Defendant, and that each  
10 Defendant is liable for each and every wrong committed by each and every other  
11 Defendant.  
12 Defendant.

## II.

### JURISDICTION AND VENUE

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15  
16         11. This Court has jurisdiction over the cause of action asserted and each  
17 Defendant named in this Complaint because the necessary minimal diversity exists between  
18 Plaintiffs and Defendants in this action due to the fact that at least one member of the  
19 purported class is a citizen and resident of the State of Arizona and the parent company  
20 Defendant PulteGroup, Inc. is a Michigan corporation with its principal place of business in  
21 Bloomfield Hills, Michigan, and because the matter in controversy is a class action seeking  
22 damages in excess of the sum of five million dollars (\$5,000,000), exclusive of interest and  
23 costs.  
24 costs.  
25

26         12. Any and all relief Plaintiffs and members of their class seek is within the  
27 jurisdictional limits of this Court. Further, Plaintiffs allege that it is uncertain whether the  
28

1 prelitigation requirements of Arizona’s Purchaser Dwelling Act (A.R.S. §§ 12-1361 through  
2 12-1366), including the protection for tolling of applicable statutes of limitation and repose  
3 (specifically, A.R.S. § 12-552) provided in A.R.S. § 12-1363(H), apply to class actions.  
4 Consequently, to toll applicable statutes of limitation and repose, Plaintiffs filed this  
5 Complaint and will serve upon Defendants summonses, the Complaint, and a notice of  
6 defects pursuant to A.R.S. § 12-1363(A). The parties may then avail themselves of the  
7 ninety-day period within which to comply with the PDA, before proceeding with the action.  
8

9  
10 13. Venue is proper in this Court because the majority (though not all) of the  
11 Defendants in this case reside in the County where this Court is situated, and because the  
12 injuries complained of in this Complaint were injuries to persons or their interests occurring  
13 in the County where this Court is situated, and were also injuries arising from a breach of a  
14 contract that was entered into and was to be performed in the County where this Court is  
15 situated.  
16

17 **III.**

18 **STATUTES OF LIMITATION AND REPOSE**

19  
20 14. The harm suffered by Plaintiffs and members of their class is harm that  
21 occurred within all operative statutes of limitation and statutes of repose.

22 **IV.**

23 **GENERAL ALLEGATIONS**

24  
25 15. Defendants placed single family residential homes in the Project in the stream  
26 of commerce for sale to members of the public after planning, designing, constructing, and  
27 selling those homes with the following defects, deficiencies and failures, among others:  
28

- 1           A.     Defectively constructed and installed Uponor plumbing systems, which  
2                     have leaked and/or are prone to leaking and other deterioration;  
3  
4           B.     Defectively constructed and installed Uponor plumbing components  
5                     and/or parts, including, without limitation, brass plumbing fittings that  
6                     have undergone, and continue to undergo, a process known as  
7                     dezincification, which have leaked and/or are prone to leaking and  
8                     other deterioration; and  
9  
10          C.     Defectively constructed and installed mechanical systems involving  
11                     Uponor plumbing components and/or plumbing systems.

12           16.    Plaintiffs are informed and believe, and based thereon allege, that during the  
13                     course of the selection, construction, assembly, and installation of the plumbing systems in  
14                     the homes in the Project, Defendants, and each of them, failed to follow acceptable  
15                     construction and/or building practices. Defendants' failure to follow acceptable  
16                     construction and/or building practices include, but are not limited to: (a) failure to follow  
17                     manufacturers' installation instructions, Project drawings, and specifications; (b) failure to  
18                     follow the acceptable custom and practice for designers, developers, builders, sellers, and  
19                     constructors in the community in which the homes in the Project were built; (c) failure to  
20                     follow industry standards; (d) failure to follow the minimum workmanship standards of the  
21                     Arizona Registrar of Contractors, and (e) failure to follow contract documents and agreed  
22                     upon construction standards.  
23  
24  
25

26           17.    The construction elements set forth herein continue to fail, deteriorate,  
27                     degrade and cause damage to other property, and failures, deterioration, degradation, and  
28

1 damage will continue to occur over the expected useful life of each home in the Project.

2           18. Plaintiffs allege that, as a direct or indirect result of the defective selection,  
3 assembly, workmanship, and construction performed by Defendants, including Does 1-100,  
4 and each of them, the plumbing systems in the homes in the Project were not constructed in  
5 a workmanlike and habitable manner and are defective, effectively denying Plaintiffs the  
6 benefit of their bargain. Further, the defective selection, assembly, workmanship, and  
7 construction of the plumbing systems has caused and continues to cause resultant damage to  
8 building components, both interior and exterior, personal property, fixtures and surrounding  
9 structures, which may continue to occur over the expected useful life of each home in the  
10 Project.  
11 Project.

12           19. As a direct and proximate result of Defendants' actions, and the defects and  
13 deficiencies herein described, Plaintiffs have been damaged in that they have been and will  
14 continue to be required to incur expenses to correct, replace, and reconstruct defects to the  
15 homes, as well as the damage to property resulting therefrom, and related costs such as  
16 relocation, loss of use, substitute housing, and mitigation expenses, at a cost which is  
17 presently unknown but believed to exceed the jurisdictional minimum established for this  
18 Court. Plaintiffs were also required to retain the services of attorneys, experts and  
19 consultants to investigate the nature and extent of the alleged defective conditions and  
20 resulting damages and formulate repair recommendations and prosecute their claims. When  
21 the precise amount of such damages and investigations is ascertained, Plaintiffs will seek  
22 leave of the Court to amend this Complaint to allege the full amount of such damages.  
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1 V.

2 **CLASS ACTION ALLEGATIONS**

3 20. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and other  
4 relevant authorities, Plaintiffs, individually and on behalf of all persons similarly situated,  
5 seek class-wide relief for harmful and unlawful conduct by Defendants.  
6

7 21. The proposed class that Plaintiffs seek to represent is composed of current  
8 owners of Sun City Grand homes in the City of Surprise, in the County of Maricopa, within  
9 the State of Arizona.  
10

11 22. The proposed class that Plaintiffs seek to represent is comprised of individuals  
12 who purchased homes within the Sun City Grand community in which homes Defendants  
13 breached the implied warranty of workmanship and habitability by failing to ensure that the  
14 homes' plumbing systems were of habitable quality and installed in a good and  
15 workmanlike manner.  
16

17 23. The persons in the class include thousands of individual owners of about nine  
18 thousand five hundred (9,500) homes within the Sun City Grand community, and thus, are  
19 so numerous that the joinder of all such persons is impracticable, and the disposition of their  
20 claims as a class will benefit the parties and the Court.  
21

22 24. There is a well-defined commonality of interest in the issues of law and of  
23 fact involving and affecting the class members to be represented.  
24

25 25. Plaintiffs' claims alleged in this Complaint are typical of those claims that  
26 could be alleged by any member of the class, and the relief sought is typical of the relief  
27 that would be sought by each member of the class in separate actions. Specifically,  
28



1 Defendants treated each class member similarly, and injured each of them similarly as a  
2 result, by failing to assemble, construct, and install the homes' plumbing systems in a good  
3 and workmanlike manner and failing to ensure that the plumbing systems were of habitable  
4 quality. Plaintiffs' claims are based upon the same course of conduct and the same legal  
5 theories.  
6

7         26. Plaintiffs will fairly and adequately represent and protect the interests of all  
8 members of the class. Plaintiffs are committed to continuing to act in the interests of the  
9 Sun City Grand residents as described in and evidenced by this Complaint. There are no  
10 known conflicts of interest between the named class representative and class members. If  
11 any conflicts do arise, other former and current class members are available to serve as class  
12 representatives.  
13

14         27. The prosecution of separate actions by individual members of the Plaintiffs'  
15 class would create a risk of inconsistent and/or varying adjudications with respect to the  
16 individual members of the class, establishing incompatible standards of conduct for  
17 Defendants and resulting in the impairment of class members' rights and the disposition of  
18 their interests through actions to which they were not parties.  
19

20         28. With respect to each member of the class and the cause of action set forth  
21 below, common issues predominate over individual issues.  
22

23         29. Proceeding in reliance on the class form of action is superior to numerous  
24 individual actions as a means of adjudicating those claims. Since the damages suffered by  
25 individual class members, while not inconsequential, may be relatively small, the expense  
26 and burden of individual litigation by each member makes, or may make, it impractical for  
27  
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1 class members to seek redress individually for the wrongful conduct alleged in this  
2 Complaint. Should separate actions be brought, or be required to be brought, by each  
3 individual class member, the resulting multiplicity of lawsuits would cause undue hardship  
4 and expense for both the Court and the litigants. The prosecution of separate actions would  
5 also create a risk of inconsistent rulings, which might be dispositive of the interests of other  
6 class members who are not parties to the adjudications and/or may substantially impede  
7 their ability to adequately protect their interests.  
8

9  
10 30. Plaintiffs have retained adequate counsel. The counsel retained by Plaintiffs  
11 are experienced and competent in civil litigation and class actions, and have served, on a  
12 number of occasions, as class counsel in other class actions.

13  
14 **VI.**

15 **CLAIM FOR RELIEF**

16 **(Breach of Implied Warranty of Workmanship and Habitability)**

17 **(By All Plaintiffs Against All Defendants)**

18 31. Plaintiffs re-allege paragraphs 1-30 of the Complaint above and incorporate  
19 them by reference as if fully set forth herein.  
20

21 32. Defendants, including Does 1-100, and each of them, knew, or had reason to  
22 know, that Plaintiffs would rely upon the skill, judgment, and experience of Defendants in  
23 the planning, design, development, construction, and sale of the homes in the Project.  
24 Defendants at the time of the planning, design, development, construction, and sale of the  
25 homes in the Project, impliedly warranted that the plumbing systems in the homes in the  
26 Project were of habitable quality and constructed and installed in a good and workmanlike  
27  
28

1 manner.

2           33. The plumbing systems in homes in the Project were not of habitable quality  
3 and not constructed in a good and workmanlike manner as alleged herein.  
4

5           34. The Defendants breached the implied warranty of workmanship and  
6 habitability by constructing, assembling, and installing defective plumbing systems that  
7 have failed and will continue to fail well before the useful life of the plumbing system  
8 expires.  
9

10           35. As a direct and proximate result of the Defendants' breach, Plaintiffs have  
11 suffered damages and will continue to suffer damages in the form of damage to building  
12 components, both interior and exterior, personal property, fixtures and surrounding  
13 structures.  
14

15           36. As a direct and proximate result of Defendants' breach, Plaintiffs have  
16 suffered damages in that they have incurred and will continue to incur expenses to correct,  
17 replace, and reconstruct defects to the homes' plumbing system, as well as the damage to  
18 property resulting therefrom, and related costs such as relocation, loss of use, substitute  
19 housing, and mitigation expenses, at a cost which is presently unknown but believed to  
20 exceed the jurisdictional minimum established for this Court. Plaintiffs were also required  
21 to retain the services of attorneys, experts and consultants to investigate the nature and  
22 extent of the alleged defective conditions and resulting damages and formulate repair  
23 recommendations and prosecute their claims.  
24  
25

26           37. The failures and deficiencies described herein were not apparent by  
27 reasonable inspection at the time of purchase. The failures, deficiencies, and resultant  
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1 damages therefrom, as discovered from time to time, would not have put a reasonable  
2 person on notice of the nature, extent and permanence of those failures, deficiencies and  
3 resultant damages. The full extent and measure of the failures, deficiencies, and resultant  
4 damages is still unknown to Plaintiffs. When the precise amount of damages is ascertained,  
5 Plaintiffs will seek leave of the Court to amend this Complaint accordingly.  
6

7 **VII.**

8 **RELIEF**

9 **WHEREFORE**, Plaintiffs and members of their class pray for judgment against  
10 Defendants, including Does 1-100, and each of them as follows:  
11

- 12 1. For general and special damages according to proof at the time of trial as  
13 provided by law;
- 14 2. For costs and expenses incurred herein;
- 15 3. For expert fees and investigative costs incurred herein pursuant to A.R.S. §  
16 12-1364, any applicable contract provision, and other applicable law;
- 17 4. For attorneys' fees and costs pursuant to A.R.S. §§ 12-341.01(A), 12-1364,  
18 any applicable contractual provisions, and other applicable law; and  
19
- 20 5. For such other and further relief as the Court deems just and proper.  
21

22  
23 DATED: February 24, 2011

**KASDAN, SIMONDS, WEBER & VAUGHAN LLP**

24  
25 /s/ Michael J. White

26 Stephen L. Weber, Esq.

27 Michael J. White, Esq.

28 James W. Fleming, Esq.

*Attorneys for Plaintiffs & Class*

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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial by jury on all causes of action triable thereby.

DATED: February 24, 2011      **KASDAN, SIMONDS, WEBER & VAUGHAN LLP**

        /s/ Michael J. White    
Stephen L. Weber, Esq.  
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