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Attorneys for Plaintiff and the Class

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT**

**STATE OF HAWAII**

IRENE O. BRITTON, Individually and in  
Her Representative Capacity, on Behalf of  
Herself and all Others Similarly Situated,

Plaintiffs,

vs.

CASTLE & COOKE WAIKOLOA, LLC, a  
Domestic Limited Liability Company;  
CASTLE & COOKE HOMES HAWAII  
INC., a Domestic Corporation; and DOES 1-  
10,

Defendants.

CIVIL NO. 13-1-2276-08 JMT  
(Construction Defects)

**AMENDED ORDER GRANTING THE  
CLASS' MOTION FOR APPROVAL  
OF FINAL DISTRIBUTIONS FROM  
SETTLEMENT FUNDS**

**HEARING MOTION**

Date: March 16, 2023  
Time: 9:30 a.m.  
Judge: Hon. John M. Tonaki  
Trial: None set

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CASTLE & COOKE WAIKOLOA, LLC, a  
Domestic Limited Liability Company;  
CASTLE & COOKE HOMES HAWAII  
INC., a Domestic Corporation,

Third-Party Plaintiffs,

vs.

UPONOR, INC. aka UPONOR NORTH  
AMERICA fka WIRSBO, an Illinois  
corporation, JOHN DOES 1-10, JANE DOES  
1-10, DOE PARTNERSHIPS 1-10, DOE  
CORPORATIONS 1-10 and DOE  
GOVERNMENTAL ENTITIES 1-10,

Third-Party Defendants.

**AMENDED ORDER GRANTING THE CLASS' MOTION FOR APPROVAL OF  
FINAL DISTRIBUTIONS FROM SETTLEMENT FUNDS**

On March 16, 2023, the Honorable John M. Tonaki heard and decided the Class' Motion for Approval of Final Distributions from Settlement Funds filed on February 8, 2023 by Plaintiff Irene O. Britton, individually and in her representative capacity, on behalf of herself and all others similarly situated, (the "Class"). The Class appeared by and through Class Counsel, Graham B. LippSmith of LippSmith LLP. Defendants Castle & Cooke Waikoloa, LLC and Castle & Cooke Homes Hawaii, Inc. (collectively "Defendants") appeared by and through their attorney, Wayne R. Wagner of Goodsill Anderson Quinn & Stifel LLP.

WHEREAS the Class applied to the Court pursuant to Rule 7 of the Hawai'i Rules of Civil Procedure; all applicable Rules of the Circuit Courts of the State of Hawai'i; Paragraph 126 of the Court-approved Settlement Agreement; and Paragraph 21 of this Court's Order Granting Final Approval of Settlement dated September 20, 2021, for an order granting the Class' Motion for Approval of Final Distributions from Settlement Funds; and

WHEREAS the Court has read and considered all parties' memoranda and declarations and has heard argument of counsel.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

The Court GRANTS the Class' Motion for Approval of Final Distributions from Settlement Funds and orders the following:

- 1) Settlement beneficiaries who have not submitted a valid IRS Form W-9 by February 8, 2023 are deemed to have forfeited their settlement benefits totaling \$17,986.00;
- 2) The Court-appointed Administrator shall make the following distributions:
  - a. \$2,368.00 in reimbursements of additional unanticipated administration costs to the Court-appointed Administrator;
  - b. \$520.83 of attorney costs shortfall to LippSmith LLP for costs advanced by LippSmith LLP to update Class Member Data for Settlement notice to reflect the most recent taxpayer and contact information for Class Members, pursuant to Settlement Agreement ¶ 55(e);
  - c. \$2,715.83 of attorney fees held (to each Class Counsel pro rata by percentage of initial award) for additional charges for Settlement notice and administration as set forth below, pursuant to Settlement Agreement ¶ 56:
    - i. \$678.96 to the Law Offices of Melvin Y. Agena,
    - ii. \$678.96 to the Law Office of Glenn K. Sato,
    - iii. \$1,100.02 to LippSmith LLP, and
    - iv. \$257.89 to Kasdan Turner Thompson Booth LLLC.
  - d. \$127.97 of GET on attorney fees held (to each Class Counsel based on award of attorney fees held) and associated with the above-referenced attorney fees as set forth below:

- i. \$31.99 to the Law Offices of Melvin Y. Akena,
  - ii. \$31.99 to the Law Office of Glenn K. Sato,
  - iii. \$51.83 to LippSmith LLP, and
  - iv. \$12.16 to Kasdan Turner Thompson Booth LLC.
- e. \$15,097.17 in *cy pres* distribution of Settlement Funds to the Hawai'i Community Foundation, pursuant to Settlement Agreement ¶ 56(c).
- 3) The Court-appointed Administrator shall distribute any sums that remain from uncashed checks as of May 13, 2023 to Hawai'i Community Foundation.
- 4) The Court-appointed Administrator shall close the escrow account once the Settlement Fund has a balance of \$0.
- 5) The Court-appointed Administrator shall update the Settlement Website to post an order from this Court approving final distributions from the Settlement Funds, indicating that the settlement administration period closed and indicating that no more benefits to Class Members will be provided.

IT IS SO ORDERED.

Dated: Honolulu, Hawai'i, April 21, 2023.

/s/ John M. Tonaki



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HON. JOHN M. TONAKI  
JUDGE OF THE CIRCUIT COURT

APPROVED AS TO FORM:

By: /s/ Wayne R. Wagner  
WAYNE R. WAGNER  
CALVIN E. YOUNG

DATED: April 17, 2023

Attorneys for Defendants  
Castle & Cooke Waikoloa, LLC and  
Castle & Cooke Homes Hawaii Inc.

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IRENE O. BRITTON, Individually and in Her Representative Capacity, on Behalf of Herself and all Others Similarly Situated vs. CASTLE & COOKE WAIKOLOA, LLC., et al., CIVIL NO. 13-1-2276-08 JMT; **AMENDED ORDER GRANTING THE CLASS' MOTION FOR APPROVAL OF FINAL DISTRIBUTIONS FROM SETTLEMENT FUNDS**