

0000015

## SETTLEMENT AGREEMENT

THIS AGREEMENT is entered by and among Plaintiffs in this Action, for themselves and on behalf of the Class as defined in the Approval Order (as described below), including successors, heirs, and subsequent purchasers; and Cal-Shake, Inc., including its successors, assigns, parents, subsidiaries, divisions, affiliates and past and present directors, shareholders, officers, employees, attorneys and agents (collectively "New Cal-Shake"); and Federal Insurance Company ("Federal"), Pacific Indemnity Insurance Company ("Pacific Indemnity"), Continental Insurance Company and Glens Falls Insurance Company ("CNA"), Wausau Insurance Companies ("Wausau"), and Transamerica Insurance Group ("TIG") (collectively, the "Settling Insurers"), hereinafter all collectively referred to as "the Parties," with respect to *The Shake Roof Cases*, Judicial Council Coordination Proceeding No. 4208; *Melvin Weiner et al. v. Shake Company of California, Inc., et al.*, Contra Costa Superior Court, Case No. C99-00318; *Portello v. Shake Company of California, Inc., et al.*, Los Angeles Superior Court, Case No. BC 243964 (the "Action").

## SETTLEMENT AMOUNTS

1. The Settling Insurers will pay to the Class a total of \$61,420,000, to be paid as follows: \$36,852,000 within 5 business days of entry of the Approval Order, as defined in Paragraph 10 D, *infra.*; \$12,284,000 on the first and second anniversaries of such date. Note that this total is based on estimated remaining Wausau policy limits of \$4,850,000. If Wausau's verified remaining policy limits are higher or lower than the estimate the total payments shall be increased or decreased by this same amount. This total amount is not joint and several, rather each Settling Insurer's individual share is set out in a separate Memorandum Of Understanding from Plaintiffs' counsel and is based on a proportionate share of their individual insurance policies.

RELEASES

2. The Plaintiff Class, on the one hand, and New Cal-Shake and the Settling Insurers, on the other hand, do hereby mutually release and forever discharge each other from the following: any claim, whether or not now known, anticipated, suspected or claimed, that any member of the Plaintiff Class ever had, now has, or may later claim to have against New Cal-Shake based upon, arising out of or in any way related to the manufacture, design, sale, warranties, advertising or performance of Cal-Shake shakes, and any other claim that is, has been, or could have been asserted in the Action, regardless of legal theory, and regardless of the type or amount of relief or damages claimed, that arises out of, relates to or concerns Cal-Shake shakes, including, but not limited to, any and all claims under Settling Insurer's insurance policies for a defense or payment of defense costs, attorney fees, supplementary payments, indemnity coverage, and/or any alleged breach of the covenant of good faith and fair dealing or extra-contractual liability related thereto, and any claims related to this litigation or the conduct of the litigation or costs therein. Notwithstanding the foregoing, or any other Provision of this Settlement Agreement, the releases described in this paragraph do not include claims for personal injury by Class members.

3. New Cal-Shake and the Settling Insurers do hereby mutually release and forever discharge each other from any and all claims under Settling Insurer's insurance policies for a defense or payment of defense costs, attorney's fees, supplementary payments, indemnity and/or insurance coverage related to or arising from the claims released by the Plaintiff Class under this Settlement Agreement. Nothing in this Settlement Agreement will affect the obligations of Settling Insurers to pay legal fees and expenses incurred in defending the Action and finalizing the Settlement. New Cal-Shake further releases Settling Insurers from any alleged breach of contract, breach of the covenant of good faith and fair dealing or extra-contractual liability

relating to or arising from the claims released by the Plaintiff Class under this Settlement Agreement, and any claims related to this litigation or the conduct of the litigation or costs incurred therein. Notwithstanding the foregoing, or any other Provision of this Settlement Agreement, the releases described in this paragraph do not include claims for personal injury by class members. Moreover, nothing in this Agreement shall be deemed to prejudice any right to or claim for insurance coverage that New Cal-Shake may later seek to assert against any of its insurers with respect to any claims against New Cal-Shake not released by this Agreement, including, but not limited to, any claim brought against it by Old Cal-Shake or its successors, Old Cal-Shake's insurers, or any other person or entity not a member of the Plaintiff Class. Both New Cal-Shake and Settling Insurers reserve all of their rights under the terms and conditions of the insurance policies and under applicable law with respect to any such claims. Nothing in this Agreement, nor any of the negotiations leading up to it, shall be deemed to be an admission or precedent in any way with respect to any such later claims.

4. The Parties acknowledge they are familiar with the provisions of Section 1542 of the California Civil Code as set forth below, and expressly waive any rights or benefits under Section 1542, as well as under any other law of similar effect. California Civil Code Section 1542 states:

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

The Parties acknowledge they may hereafter discover facts different from, or in addition to, those they now know or believe to be true with respect to the settled claims. The Parties nevertheless acknowledge this Agreement has been negotiated and agreed upon in light of this realization and, being fully aware of the situation, hereby expressly agree the releases contained herein shall be

given full force and effect even as to unknown and unsuspected settled claims, demands, and causes of action, if any.

### ADDITIONAL PROVISIONS

5. It is further agreed that:

A. The Settling Insurers, both primary and excess, reserve all rights among themselves to seek reallocation of defense and indemnity costs paid in connection with this Action.

B. Settling Insurers reserve all rights against Allianz Insurance Company ("Allianz") and Central Mutual Insurance Company;

C. Settling Insurers will have most favored nation protection regarding any later settlement with Allianz. Absent a material change in the law or material ruling by the Court, Plaintiffs will not settle with Allianz on any terms less favorable than those entered by Settling Insurers, specifically amounts based upon the payment of 100% of the primary limit, other than the December 1986 to March 1987 Allianz policy, and approximately 71% of excess limits. If this provision is breached, this Agreement will be deemed modified to provide the Settling Insurers the same material terms as provided to Allianz.

### SETTLEMENT APPROVAL

6. The effectiveness of this Settlement Agreement is conditioned on Court approval obtained in accordance with CCP Section 382 and Rule of Court 1859, all as more fully set forth in Paragraph 15 hereof.

7. Plaintiffs shall use best efforts to obtain certification of a class containing both California and non-California owners of Cal-Shake roofing shakes produced by New Cal-Shake (the "Multi-State Class"). If Plaintiffs are unable, despite the exercise of such best efforts, to obtain certification of such a Multi-State Class or to extend the terms of this settlement to the

members of the Multi-State Class, this Settlement Agreement shall remain in full force and effect with respect to the Class as currently defined.

8. The Parties acknowledge that the California class members have already had an opportunity to opt-out, and the Parties agree that, subject to court approval, no new opt-out right shall be applicable to such California class members. Prior California opt-outs, again subject to court approval, shall be given the opportunity to opt back into the settlement and participate in the recovery to the same extent as they would had they not opted-out. Subject to the provisions of Paragraph 7, and further subject to court approval, out of state class members, if any, shall be provided a right to opt-out. This Agreement will continue in force even if the settlement is ultimately approved on an opt-out basis, but will be subject to the "tip-over" provision in Paragraph 9, below.

9. The Settling Insurers shall have the right to terminate this settlement, at their sole discretion, if the number of opt-outs exceed the following amounts:

A. If only out-of-state class members have the right to opt-out, then the tip-over right, as to non-California class members, will be triggered by new opt-outs in excess of X class members;

B. If existing California class members are again given an additional opportunity to opt out, the tip-over right, as to both California and non-California class members, will be triggered by total opt-outs (both California and out-of-state) in excess of Y class members.

The opt-out numbers "X" and "Y" shall be set forth in a separate confidential letter from class counsel to New Cal-Shake's defense counsel. The Settling Insurers shall exercise such withdrawal right, if at all, no later than 10 business days after receipt of the opt-out list.

10. Promptly after execution of this agreement, the Parties shall submit it to the Court for preliminary approval and shall move the Court for one or more orders which by their terms shall:

A. Grant preliminary approval of this settlement agreement. Thereafter, in connection with seeking final approval and approval of the notice to the class, Class Counsel will provide to the Court detailed provisions concerning the methodology and protocol to be utilized for providing compensation to members of the Plaintiff Class;

B. Determine or approve the form, contents and method of dissemination of the Class Notice and the date of a fairness hearing;

C. Schedule appropriate deadlines, to be included in the Class Notice, for objections and other settlement-related dates; and

D. Schedule the fairness hearing to review comments or objections regarding this Agreement, to consider its fairness, reasonableness and adequacy under CCP Section 382 and Rule of Court 1859, and to enter an order and partial judgment approving this settlement agreement as fair, adequate and reasonable under CCP Section 382 and Rule of Court 1859, making such other findings and determinations as the Court deems necessary and appropriate to effectuate the terms of this settlement agreement ("the Approval Order"). Plaintiffs shall cooperate with and not oppose New Cal-Shake's efforts in seeking court approval of the settlement as a good faith settlement pursuant to CCP § 877.6, but this Settlement Agreement is not conditioned upon such determination.

The Parties shall cooperate, assist and undertake all reasonable actions to accomplish these required events on the schedule set by the Court.

11. The payments set forth in Paragraph 1 above shall be deposited by Class counsel or a claims administrator appointed by the Court in a federally insured interest bearing settlement

account(s) to be designated by Class counsel. Upon entry of the Approval Order and in accordance with the trial court's orders regarding fees, Class counsel's fee award shall be disbursed from the first payment set forth in Paragraph 1, above. Defendants and Settling Insurers shall not object to Class counsel's fee petition. In the event the Approval Order is reversed on appeal in a material way affecting this Settlement Agreement as determined by the trial court, and the Parties are restored to their respective positions as described in Paragraph 16, the attorney fees and costs paid to Class counsel shall be returned to the Settling Insurers within ten (10) business days of such determination. A stipulated undertaking for repayment of attorney fees and costs, and an order thereon, shall be entered by the Court at the same time as the Approval Order and shall provide that each Class counsel and his firm shall be jointly and severally liable for its own reimbursement obligation and the reimbursement obligation of each other Class Counsel, or other security agreeable to the parties shall be provided, consent not to be unreasonably withheld.

12. The remaining sums, other than cost of notice and the attorneys' fee award, paid pursuant to Paragraphs 1 shall be disbursed to the Class when the Approval Order becomes final and shall be disbursed only in accordance with the terms of the orders of the Court. The Approval Order shall be deemed final when either (1) the time to appeal from the Approval Order has passed and no appeal has been taken therefrom, or (2) such an appeal having been timely filed, (a) the appeal is dismissed or otherwise withdrawn or (b) the Approval Order is affirmed on appeal without substantial modification.

13. Upon preliminary approval by the trial court of the settlement, and as the court may direct, Class Counsel shall cause the Class Notice to be provided to potential Class members. The Settling Insurers shall pay the sums necessary for notice from the first payment set forth in each of Paragraphs 1 in proportion to their shares. The cost of notice shall be

deposited into a notice account within ten (10) days of preliminary approval by the trial court of the settlement, and Settling Insurers shall receive credit for such payments against the sums set forth in Paragraphs 1.

14. All costs of administration of the settlement, including, but not limited to, all costs of administration of the claims process pursuant to which class members will receive compensation, shall be satisfied out of the settlement amounts paid hereunder by the Settling Insurers. Other than making the settlement payments described in Paragraph 1 and subject to the provisions of Paragraph 3, Settling Insurers and New Cal-Shake shall have no further liability of any kind for any loss, costs, attorneys fees or expenses of any type whatsoever incurred in connection with this settlement.

15. This Agreement is subject to and conditioned upon the Court issuing the Approval Order in accordance with CCP Section 382 and Rule of Court 1859. The Approval Order shall:

A. Determine that this Agreement is entered into in good faith, is reasonable, fair, adequate and in the best interests of the Class;

B. Approve the Plan of Allocation, addressing the manner of distribution of the settlement to class members, including reasonable and customary stipends, or other compensation, for Class Representatives. Class Counsel shall have the option, subject to court approval, of providing a similar stipend or other compensation to Class Members who participated in the random roof sample; and

C. Reserve the continuing and exclusive jurisdiction of the Court over the Parties to this agreement, to administer, supervise, construe and enforce this Agreement in accordance with its terms for the mutual benefit of the Parties.

16. This Agreement shall, without notice, be automatically terminated if the Court denies a motion seeking preliminary approval or declines to enter or modifies materially the



Approval Order, or if the Approval Order is reversed or modified materially at the fairness hearing or on appeal and the reversal or modification becomes final. In the event of termination and notwithstanding any other provision of this Agreement, (1) all Parties shall be restored to their respective positions, immediately prior to entering into the settlement; and (2) the five-year statute for commencement of trial and all statutes of limitation and/or repose for all claims asserted in such cases shall be deemed to have been tolled from May 11, 2005 until the conclusion of the subsequent trial of the matter.

17. Class counsel will cooperate in all respects with counsel for New Cal-Shake and the Settling Insurers in connection with any later collateral attack on the Approval Order or any disputes that may arise with respect to opt outs. All Parties hereto agree that they will cooperate to effectuate the provisions of this Agreement. Each Party agrees, without limitation, to execute all documents and do all things necessary to fully effectuate the terms of this Agreement.

#### **GENERAL PROVISIONS**

18. The Agreement shall constitute the entire agreement among the Parties and shall supersede any previous agreements, representations, communications and understandings among the Parties. This Agreement may not be changed, modified, or amended except in writing signed by all Parties and approved by the Court.

19. The method of disposition or allocation of the proceeds of the settlement fund to be created for the benefit of Class members hereunder shall be determined in the reasonable best judgment of the Class representatives and their counsel, and shall be subject to Court approval. New Cal-Shake and the Settling Insurers agree not to contest or oppose the plan for the allocation of the settlement fund, so long as such allocation plan is (1) approved by the Court, (2) embodied in the Approval Order, and (3) is not successfully challenged on appeal.

20. All parties hereto acknowledge that this settlement constitutes a good faith, arms-length settlement of a disputed claim. Neither payment nor receipt shall be construed by any party as an admission that any liability, insurance coverage or other obligation to pay, other than the payment of settlement amount, exists for either New Cal Shake or the Settling Insurers. The parties agree this settlement shall not be deemed to be precedential whatsoever in any other matter or proceeding.

21. This Agreement shall be construed under and governed by the laws of the State of California, applied without regard to laws applicable to choice of law.

22. All of the negotiations leading to this Agreement, all of the communications generated pursuant to it, and the implementation hereof (collectively, "Confidential Compromise Material"), shall be kept strictly confidential and shall not be disclosed to any person, corporation, or other entity not a Party to this Agreement except (i) in response to a judicial order compelling disclosure, or as may otherwise be required by applicable law or compelled in a judicial proceeding, (ii) to subsidiary, affiliate, associated, or parent companies of the Parties and their counsel, (iii) to the settling insurers' reinsurers or their retrocessionaires, if any, (iv) to auditors of or counsel to the Parties upon their request; and (v) in litigation with other insurers of Cal Shake; provided, however, that disclosure pursuant to subparts (iii), (iv) and (v) above shall only be made under appropriate written assurances of confidentiality. The Parties shall cooperate to protect the Confidential Compromise Material from disclosure. The Parties hereto may waive the provisions of this paragraph of this Agreement, only if each Party hereto consents in writing. In addition to the confidentiality provisions contained herein and not by way of limitation thereof, this Agreement shall be deemed to fall within the protections afforded by Rule 408 of the Federal Rules of Evidence and any similar state law provisions. The provisions of this paragraph shall not apply to the public disclosure of the dollar amounts of the settling insurers'

contributions to the settlement as may be reasonably required to secure Court approval of this settlement.

23. The Parties hereby agree to utilize informal dispute resolution and negotiation processes to resolve any disputes or disagreements pertaining to this Agreement. If necessary, the Parties agree to utilize informal mediation with the Hon. (ret.) Daniel Weinstein of Judicial Arbitration & Mediation Service (JAMS), of San Francisco, California, or, if he were to be unavailable, another independent third party mediator agreed among the disputing Parties. In the event these alternative dispute resolution efforts are unsuccessful in resolving any disputes that may arise between the Parties, the Parties agree that the venue for any later disputes pertaining to this settlement, shall be the Superior Court of Contra Costa County, California.

24. By entering into this Agreement, the Parties do not intend to make, nor shall they be deemed to have made, any admission of any kind. The Parties agree they are entering into this Agreement for the purposes of settling certain disputes between them and to avoid the cost of further litigation with respect to these disputes. This Agreement is the product of informed negotiations and compromises of previously stated legal positions. Nothing contained in this Agreement shall be construed as an admission by any Party as to the merit or lack of merit of any particular theory relating to the matters at issue herein. This Agreement does not reflect the views of the Settling Insurers as to the actual scope of coverage of their Policies with respect to the claims at issue. Statements made in the course of negotiations have been and shall be without prejudice to the rights of the Parties in any later disputes or transactions with any other persons or entities not Party to this Agreement. With respect to all such matters or persons, the Parties hereby reserve all previously held positions and all other rights and privileges.

25. The Parties agree that this Agreement, and all acts in the performance of this Agreement, are not intended to be, nor shall they in fact be, used in any case or other proceeding

for any purpose, including, but not limited to, efforts to prove either the acceptance by any Party hereto of any particular theory of liability or damage or insurance coverage or as evidence of any obligation that any Party hereto has or may have to anyone. Provided, however, that nothing contained in this section shall be interpreted to restrict the right of any Party (a) to disclose the Agreement as permitted by Paragraph 22 herein, (b) to bring a claim or to introduce evidence predicated on a breach of this Agreement, (c) to provide proof as to the fact of settlement and release provided herein if necessary to respond to a suit, claim, or judicial order, or (d) in litigation with other insurers concerning coverage for the claims at issue herein.

26. The Settling Insurers and New Cal-Shake agree that the agreement of Plaintiffs to seek certification of a Multi-State Class for settlement purposes or the actual certification of such a Multi-State Class does not entitle the Settling Insurers or New Cal-Shake to seek removal of this case to federal court under the Class Action Fairness Act or any other provision of applicable law. The Settling Insurers and New Cal-Shake expressly waive any such right.

27. This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

All individuals signing this Settlement Agreement on behalf are duly authorized to sign on behalf of the entity under which that individual's signature appears, and represent and warrant that they have full authority to do so.

Dated: \_\_\_\_\_

CAL-SHAKE, INC.

By: \_\_\_\_\_  
 Name:  
 Title:

Dated: \_\_\_\_\_

WAUSAU INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

CONTINENTAL INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

GLENS FALLS INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

TIG INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

FEDERAL INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

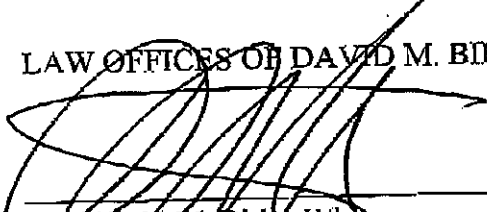
PACIFIC INDEMNITY INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF DAVID M. BIRKA-WHITE

Dated: \_\_\_\_\_

  
By: David M. Birka-White  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

FARELLA BRAUN + MARTEL LLP

Dated: \_\_\_\_\_

  
By: William R. Friedrich  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

BERDING & WEIL LLP

Dated: \_\_\_\_\_

  
By: Jeffrey B. Cereghino  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

GILMAN & PASTOR, LLP

Dated: \_\_\_\_\_

By: John Martland  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT: BINGHAM McCUTCHEN, LLP

Dated: \_\_\_\_\_

By: Michael Begert  
Attorneys for Defendant Cal-Shake, Inc.

APPROVED AS TO FORM AND CONTENT: CESARI WERNER & MORIARTY

Dated: \_\_\_\_\_

By: Dennis F. Moriarty  
Attorneys for Defendant Cal-Shake, Inc.

APPROVED AS TO FORM AND CONTENT: NIXON PEABODY, LLP

Dated: \_\_\_\_\_

By: Donald Dorfman  
Attorneys for CNA Insurance Company

APPROVED AS TO FORM AND CONTENT: SENN MEULEMANS, LLP

Dated: \_\_\_\_\_

By: Wayne L. Burkamp  
Attorneys for Wausau Insurance Company

APPROVED AS TO FORM AND CONTENT: BRYDON HUGO & PARKER

Dated: \_\_\_\_\_

By: Robert K. Farrell  
Attorneys for Transamerica Insurance Group

APPROVED AS TO FORM AND CONTENT: COZEN O'CONNOR

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Peter J. Mintzer  
Attorneys for Chubb Group of Insurance Companies



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Dated: \_\_\_\_\_

**GLENS FALLS INSURANCE COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

Dated: 5/18/05

**TIG INSURANCE COMPANY**

By: James G. O'Brien  
Name: JAMES G. O'BRIEN  
Title: VP

Dated: \_\_\_\_\_

**FEDERAL INSURANCE COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

**PACIFIC INDEMNITY INSURANCE COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

APPROVED AS TO FORM AND CONTENT:

**LAW OFFICES OF DAVID M. BIRKA-WHITE**

Dated: \_\_\_\_\_

By: David M. Birka-White  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

NIXON PEABODY, LLP

Dated: \_\_\_\_\_

By: Donald Dorfman  
Attorneys for CNA Insurance Company

APPROVED AS TO FORM AND CONTENT:

SENN MEULEMANS, LLP

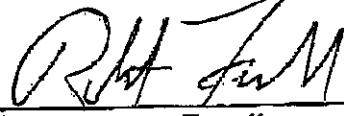
Dated: \_\_\_\_\_

By: Wayne L. Burkamp  
Attorneys for Wausau Insurance Company

APPROVED AS TO FORM AND CONTENT:

BRYDON HUGO & PARKER

Dated: 5/18/05

  
By: Robert K. Farrell  
Attorneys for Transamerica Insurance Group

APPROVED AS TO FORM AND CONTENT:

COZEN O'CONNOR

Dated: \_\_\_\_\_

By: Peter J. Mintzer  
Attorneys for Chubb Group of Insurance Companies

May-18-05 11:37am From-Cozen O'Connor-Seattle

206-821-8783

T-898 P.002/004 F-082

Dated: 5/23/05

PACIFIC INDEMNITY INSURANCE COMPANY

By: [Signature]  
Name: Sandra M. James  
Title: ASSISTANT VICE-PRESIDENT

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF DAVID M. BIRKA-WHITE

Dated: \_\_\_\_\_

By: David M. Birka-White  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

FARELLA BRAUN + MARTEL LLP

Dated: \_\_\_\_\_

By: William R. Friedrich  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

BERDING & WEIL LLP

Dated: \_\_\_\_\_

By: Jeffrey B. Cereghino  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

GILMAN & PASTOR, LLP

Dated: \_\_\_\_\_

By: John Martland  
Attorneys for Plaintiffs

May-18-05 11:28am From-Cozen O'Connor-Seattle

206-621-8768

T-898 P.003/004 F-092

Dated: \_\_\_\_\_

WAUSAU INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

CONTINENTAL INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

GLENS FALLS INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:


Dated: \_\_\_\_\_

TIG INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: 5/19/05

FEDERAL INSURANCE COMPANY

By:   
Name: SONIA H. VANDES  
Title: ASSISTANT VICE-PRESIDENT

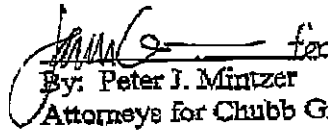
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T-598 P.004/004 F-092

APPROVED AS TO FORM AND CONTENT: COZEN O'CONNOR

Dated: \_\_\_\_\_

  
By: Peter J. Mintzer  
Attorneys for Chubb Group of Insurance Companies

27. This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

All individuals signing this Settlement Agreement on behalf are duly authorized to sign on behalf of the entity under which that individual's signature appears, and represent and warrant that they have full authority to do so.

Dated: 5/17/05

CAL-SHAKE, INC.

By: [Signature]  
Name: Ken Budgett  
Title: Exec. Dir.

Dated: \_\_\_\_\_

WAUSAU INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_

CONTINENTAL INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM AND CONTENT: NIXON PEABODY, LLP

Dated: 5/17/05

Alan S. Feiler  
By: Donald Dorfman / Alan S. Feiler  
Attorneys for CNA Insurance Company

APPROVED AS TO FORM AND CONTENT: SENN MEULEMANS, LLP

Dated: \_\_\_\_\_

Wayne L. Burkamp  
By: Wayne L. Burkamp  
Attorneys for Wausau Insurance Company

APPROVED AS TO FORM AND CONTENT: BRYDON HUGO & PARKER

Dated: \_\_\_\_\_

Robert K. Farrell  
By: Robert K. Farrell  
Attorneys for Transamerica Insurance Group

APPROVED AS TO FORM AND CONTENT: COZEN O'CONNOR

Dated: \_\_\_\_\_

Peter J. Mintzer  
By: Peter J. Mintzer  
Attorneys for Chubb Group of Insurance Companies

05/17/2005 14:20 FAX 415 433 1508  
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All individuals signing this Settlement Agreement on behalf are duly authorized to sign on behalf of the entity under which that individual's signature appears, and represent and warrant that they have full authority to do so.

Dated: \_\_\_\_\_

CAL-SHAKE, INC.

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

WAUSAU INSURANCE COMPANY

By: *Mark R. Rouillard*  
Name:  
Title: MARK R. ROUILLARD  
5/17/05

Dated: \_\_\_\_\_

CONTINENTAL INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

GLENS FALLS INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:



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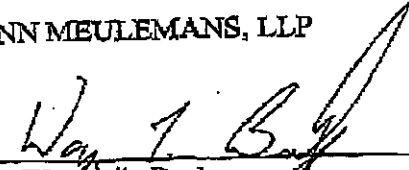
APPROVED AS TO FORM AND CONTENT: NIXON PEABODY, LLP

Dated: \_\_\_\_\_

By: Donald Dorfman  
Attorneys for CNA Insurance Company

APPROVED AS TO FORM AND CONTENT: SENN MEULEMANS, LLP

Dated: 5/17/05

  
By: Wayne L. Burkamp  
Attorneys for Wausau Insurance Company

APPROVED AS TO FORM AND CONTENT: BRYDON HUGO & PARKER

Dated: \_\_\_\_\_

By: Robert K. Farrell  
Attorneys for Transamerica Insurance Group

APPROVED AS TO FORM AND CONTENT: COZEN O'CONNOR

Dated: \_\_\_\_\_

By: Peter J. Mintzer  
Attorneys for Chubb Group of Insurance Companies

MAY 19 2005 (11:45 AM PM) CNA SF EMT CLAIMS

NO. 8366 IP. 3  
NO. 282 P. 2

27. This Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

All individuals signing this Settlement Agreement on behalf are duly authorized to sign on behalf of the entity under which that individual's signature appears, and represent and warrant that they have full authority to do so.

Dated: \_\_\_\_\_

CAL-SHAKE, INC.

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

WAUSAU INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

Dated: 5/19/05

CONTINENTAL INSURANCE COMPANY

By: Michael J. Sehn  
Name: MICHAEL J. SEHN  
Title: Senior Vice President.

MAY 19 2005 11:46 AM PM CNA SF EMT CLAIMS

NO. 8366 IP. 4  
NO. 282 P. 3

Dated: May 19, 2005

GLENS FALLS INSURANCE COMPANY

By: Michael J. Sehr  
Name: MICHAEL J. SEHR  
Title: SENIOR VICE PRESIDENT

Dated: \_\_\_\_\_

TIG INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_

FEDERAL INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Dated: \_\_\_\_\_

PACIFIC INDEMNITY INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF DAVID M. BIRKA-WHITE

Dated: \_\_\_\_\_

By: David M. Birka-White  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

PACIFIC INDEMNITY INSURANCE COMPANY

By: \_\_\_\_\_  
Name:  
Title:

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF DAVID M. BIRKA-WHITE

Dated: \_\_\_\_\_

By: David M. Birka-White  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

FARELLA BRAUN + MARTEL LLP

Dated: \_\_\_\_\_

By: William R. Friedrich  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

BERDING & WEIL LLP

Dated: \_\_\_\_\_

By: Jeffrey B. Cereghino  
Attorneys for Plaintiffs

APPROVED AS TO FORM AND CONTENT:

GILMAN & PASTOR, LLP

Dated: May 19, 2005

  
By: John Martland  
Attorneys for Plaintiffs