

SUPREME COURT FOR THE STATE OF NEW YORK  
NEW YORK COUNTY

KATHRYN THOME, *et al.*, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

- against -

THE JACK PARKER CORPORATION, *et al.*,

Defendants.

Index. No.: 152510/2018

**STIPULATION AND AGREEMENT  
OF SETTLEMENT**

This stipulation and agreement of settlement is submitted pursuant to CPLR 908 in furtherance of the settlement of the above-captioned action.<sup>1</sup> Subject to the approval of the Court, the Settlement is entered into by Plaintiffs Kathryn Thome, Michael Wilson, Rochelle Berliner, Irwin Reiser, Michel Perez, Inna Los, Dario Solman, Jill Mackenzie, Cassandra Segarra Colon, and Tahmena Haque, on behalf of themselves and the certified Class, by and through their counsel, and Defendants The Jack Parker Corporation, Parker Management New York, LLC, Parker Forest Hills L.P., Parker Yellowstone L.P., Parker Queens L.P., BPP Parker Tower Property Owner LLC, Blackstone Property Partners L.P., and Beam Living Company (collectively, “Defendants”) by and through their respective counsel.

The Settlement is intended by Plaintiffs and Defendants to fully and finally compromise, resolve, discharge and settle the Action subject to the terms and conditions set forth below and the final approval of the Court.

---

<sup>1</sup> Capitalized terms shall have the meanings ascribed to them below. Except as otherwise set forth herein, all defined terms used in this Stipulation shall include the singular and plural form of the term defined.

WHEREAS, on March 21, 2018, Plaintiffs filed a putative class action Complaint challenging the rent stabilization status of the apartments at the Buildings;

WHEREAS, Plaintiffs filed an amended complaint on November 30, 2018;

WHEREAS, Defendants filed an answer to Plaintiffs' amended complaint on February 4, 2019;

WHEREAS, Defendants Parker Forest Hills L.P., Parker Yellowstone L.P. and Parker Queens L.P. are the former owners of the Buildings;

WHEREAS, Defendant BPP Parker Tower Property Owner LLC is the current owner of the Buildings;

WHEREAS, the Complaint alleged that the Buildings receive certain tax abatements and/or exemptions pursuant to the J-51 Program;

WHEREAS, J-51 tax benefits for the Buildings commenced on July 1, 1998 and expired on June 30, 2011;

WHEREAS, the Complaint alleged that certain tenants did not receive rent-stabilized leases;

WHEREAS, the Complaint alleged that certain tenants were charged rents in excess of the legal rent in violation of the Rent Stabilization Code and Rent Stabilization Laws;

WHEREAS, to avoid the costs, distractions and uncertainties of litigation, Plaintiffs and Defendants have agreed to the resolution of the Action pursuant to the terms and conditions set forth below that shall be presented to the Court for final approval pursuant to CPLR 908 after notice to the Class; and

WHEREAS, on the basis of information available to them, including publicly available information, documentation made available by Defendants and DHCR, Lead Counsel and the

proposed Class Representatives have determined that the Settlement described herein is fair, reasonable, adequate, and in the best interests of the Plaintiffs and the Class.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel for the parties:

### **DEFINITIONS**

The following terms shall have the following meanings:

- i. “J-51 Program” means the New York City tax abatement program under the RPTL that was the subject of the Complaint.
- ii. “J-51 Rider” means the notice accompanying a lease or lease renewal pursuant to RSL § 26-504(c).
- iii. “Action” means the class action lawsuit titled *Thome et al. v The Jack Parker Corporation, et al.*, Index No, 152510/2018 (New York County)
- iv. “Appeal” means an appeal or other judicial review seeking to modify or reverse an order or judgment by any person or entity with standing to do so including, without limitation, any petition or motion including petitions for rehearing or reargument, petitions for rehearing en banc, petitions for leave to appeal and/or actual appeal, and petitions for certiorari or any other form of review by a court of competent jurisdiction.
- v. “Attorney’s Fees and Expenses Award” means the amounts awarded to Class Counsel as compensation for its fees and expenses incurred in connection with investigating, prosecuting, and settling the Action as provided for in paragraph 16. The Attorney’s Fees and Expenses Award shall be paid exclusively from the Settlement Amount, as described in paragraph 8.
- vi. “Bar Date” shall have the meaning ascribed in paragraph 22.
- vii. “Base Amount” shall have the meaning ascribed in paragraph 2.
- viii. “Buildings” means, the residential buildings located at 104-20 Queens Boulevard, 104-40 Queens Boulevard, and 104-60 Queens Boulevard, Forest Hills, NY 11375.
- ix. “Calculated Amount” means the lowest rent registered pursuant to RSC § 2528.3 for a comparable unit in the Building in which the Unit at issue is located in effect on the date that the Class Member for occupied such Unit.

- x. “Cash Settlement Account” means an escrow account, established by Lead Counsel, maintained by Lead Counsel, into which the Cash Settlement shall be paid.
- xi. “Claim Form” means the document Class Members shall use to file a claim for a Past Overcharge Amount, a proposed draft of which appears as Exhibit A hereto.
- xii. “Class” shall mean all tenants at the Buildings living, or who had lived, in apartments that were deregulated during the period when J-51 tax benefits were being received by the owner of the Buildings, except that the class shall not include: (i) any tenants who vacated such apartments prior to March 21, 2014; or (ii) any tenants whose occupancy in such apartments commenced after such J-51 tax benefits to the Buildings ended.
- xiii. “Class Members” are individuals who are encompassed within the class definition.
- xiv. “Class Representative Incentive Award” shall have the meaning ascribed in paragraph 17.
- xv. “Complaint” means the Second Amended Class Action Complaint dated November 30, 2018, filed by the Plaintiffs in this Action.
- xvi. “Court” means the New York State Supreme Court, County of New York.
- xvii. “Defendants” shall mean The Jack Parker Corporation, Parker Management New York, LLC, Parker Forest Hills L.P., Parker Yellowstone L.P., Parker Queens L.P., BPP Parker Tower Property Owner LLC, Blackstone Property Partners L.P., and Beam Living Company, collectively.
- xviii. “DHCR” means the New York State Division of Housing and Community Renewal.
- xix. “Effective Date” means the earliest date that the Order and Final Judgment shall become effective. The Order and Final Judgment shall become effective on the first day following the last of the following occurrences: (a) the last date to file an Appeal or seek permission to Appeal has expired with no Appeal having been taken or sought; or (b) if any Appeal is taken or sought, the date a remittitur or order is entered by a court: (i) affirming the Order and Final Judgment or denying or dismissing any Appeal from the Order and Final Judgment, and any Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; (ii) reversing or modifying the Order and Final Judgment in any non-material respect and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally denied or dismissed or the

Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; and (iii) reversing or modifying the Order and Final Judgment in a material respect provided Plaintiffs and Defendants agree in writing to remain bound to the Settlement as reversed or modified and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom. For purposes of this definition, a reversal or modification shall be deemed “material” if it materially affects any term of this Stipulation.

- xx. “Eligible Class Member” shall have the meaning ascribed in paragraph 6.
- xxi. “Enactment” shall have the meaning ascribed in paragraph 25.
- xxii. “Lead Counsel” means the law firm of Newman Ferrara LLP.
- xxiii. “Net Cash Settlement Amount” means the Settlement Amount, less Attorney’s Fees and Expense Award, and the Class Representative Incentive Award.
- xxiv. “Notice” means the notice of the terms of this Stipulation to be given to the Class following Preliminary Approval as described in paragraph 26.
- xxv. “Non-Payment Claims” shall have the meaning ascribed in paragraph 4.
- xxvi. “NPC Objections” shall have the meaning ascribed in paragraph 4.
- xxvii. “Opt-Out” shall have the meaning ascribed in paragraph 22.
- xxviii. “Order and Final Judgment” means the order to be signed by the Court granting final approval of the Settlement, a proposed draft of which appears as Exhibit C hereto.
- xxix. “Order and Final Judgment Date” means the date the Order and Final Judgment is entered, via Notice of Entry, in the New York County Clerk’s Office.
- xxx. “Past Overcharge Amount” shall have the meaning ascribed in paragraph 1.
- xxxi. “Plaintiffs” means Kathryn Thome, Michael Wilson, Rochelle Berliner, Irwin Reiser, Michel Perez, Inna Los, Dario Solman, Jill Mackenzie, Cassandra Segarra Colon, and Tahmena Haque.
- xxxii. “Preliminary Approval” shall have the meaning ascribed in paragraph 19.

- xxxiii. “Preliminary Approval Date” means the date the Preliminary Approval Order is entered, via Notice of Entry, in the New York County Clerk’s office.
- xxxiv. “Preliminary Approval Order” means the order to be signed by the Court granting Preliminary Approval, a proposed draft of which appears as Exhibit B hereto.
- xxxv. “Prior Payments” will mean the prior overcharge rent refunds, tendered by Defendants and cashed by the respective tenant as delineated in paragraph 3.
- xxxvi. “Relevant Time Period” shall mean the period from March 21, 2014 through the Order and Judgment Date (for Class Members who are in occupancy of their Units as of the Order and Judgment Date) or the date that the Class Member vacated such Class Member’s Unit, as applicable.
- xxxvii. “Rent Guidelines Board Increases” or “RGB Increases” shall have the meaning ascribed to it under the RSC and RSL.
- xxxviii. “Rent Adjustments” shall have the meaning ascribed in paragraph 3.
- xxxix. “Releasing Class Members” shall have the meaning ascribed in paragraph 29.
  - xl. “Released Defendants” shall have the meaning ascribed in paragraph 28.
  - xli. “RSC” means the New York City Rent Stabilization Code as amended.
  - xl.ii. “RSL” means the New York City Rent Stabilization Law as amended.
  - xliii. “Settlement” means the settlement of this Action pursuant to the terms and conditions of this Stipulation and the orders implementing same.
  - xliv. “Settlement Amount” shall have the meaning ascribed in paragraph 8.
  - xl. v. “Settlement Distributions” shall have the meaning ascribed in paragraph 6.
  - xlvi. “Settlement Hearing” means the judicial hearing, on a date to be set by the Court, at which the Court will consider all arguments concerning whether the Settlement should be finally approved.
  - xl. vii. “Settled Plaintiffs’ Claims” shall have the meaning ascribed in paragraph 30.
  - xl. viii. “Stipulation” means this Stipulation and Agreement of Settlement together with the Exhibits attached hereto.
  - xl. ix. “Tenant” shall mean the individual(s) named in the lease for the Unit.

1. “Units” and “Unit” shall mean, in the plural, all apartments in the Buildings, and in the singular any Unit in the Buildings.

### **SETTLEMENT CONSIDERATION**

1. Following arm’s length negotiations, Plaintiffs, through this Stipulation, wish to settle the Action in exchange for payment by Defendants of the rent overcharges (the “Past Overcharge Amounts”) for each Eligible Class Member.

2. For purposes of settlement and to determine damages only (without any effect on the Units’ legal rents), each Class Member’s Past Overcharge Amount shall be determined by: (i) subtracting the Calculated Amount during the Relevant Time Period for such Class Member’s Unit (as set forth in Confidential Exhibit E<sup>2</sup>) from the rent actually paid by such Class Member during the Relevant Time Period (the “Base Amount”); (ii) subtracting the amount paid to such Class Member pursuant to the Prior Payments, if any, from the Base Amount; and (iii) adding simple interest thereon at 9% per annum. If a Class Member’s Past Overcharge Amount is equal to or less than \$0.00, such Class Member will not be entitled to the payment of a Past Overcharge Amount.

3. Defendants previously tendered refunds totaling \$1,191,208 (as set forth in Confidential Exhibit F) (the “Prior Payments”) and issued rent-stabilized leases with legal regulated rents properly calculated in accordance with the RSL and RSC (the “Rent Adjustments”) to the Class Members who were current occupants of Units as of April 2019. Each Releasing Class Member who currently occupies a Unit agrees that the legal rent set forth in such Class Member’s lease that is in effect as of the date hereof is the legal regulated rent for such Class Member’s Unit and shall not be subject to further reduction or modification but shall

---

<sup>2</sup> Any exhibits designated as “Confidential” shall be filed with the Court in completely redacted form. If the Court requests to view an unredacted version of any such exhibit, it shall be provided to the Court for non-public, *in camera* review.

be subject to future increases in accordance with the RSL and RSC. Defendants represent and warrant that since April 2019, they have not increased legal regulated rents other than in accordance with the RSL and RSC.

4. If a Class Member paid an amount of rent during the Relevant Time Period that was less than the Calculated Amount, Defendants shall have a claim for such underpayment of rent (the “Non-Payment Claims”). If feasible, Class Members against whom Defendants have alleged Non-Payment Claims will be notified of such Non-Payment Claims along with the Notice. Any such Class Member who submits a Claim Form may also submit an objection to the Non-Payment Claim and any supporting documentation or other materials (the “NPC Objections”). Plaintiffs and Defendants will confer on the resolution of all NPC Objections. All NPC Objections that cannot be resolved will be submitted to the Court for determination on or before the Settlement Hearing and the Court shall provide such orders and judgments as it deems appropriate including, without limitation, issuing monetary judgments together with an order that Defendants be awarded possession of the subject Unit, and related orders, judgments, or writs, against the subject Eligible Class Member. The parties agree that the Court may refer such NPC Objections to a Judicial Hearing Officer or Special Referee for determination. If, by the Effective Date, some disbursements to Eligible Class Members remain unpaid because of unresolved NPC Objections or for any other reason, the amount allocated to the Eligible Class Member (including the disputed Non-Payment Claim) will remain in the Cash Settlement Account for later distribution at such time as the dispute is resolved.

5. Past Overcharge Amounts shall not include any amount based on any claim or calculation of treble damages, any other punitive damages, fines or interest (other than 9% interest as set forth in paragraph 2). In accordance with the requirements of the CPLR, all claims



for treble damages, punitive damages, fines and interest (other than 9% interest as set forth in paragraph 2) under the RSL, RSC or any other provision of law are hereby waived and released, except as to Opt-Outs.

6. Each Class Member who has timely and properly filed a Claim Form and not elected to Opt-Out is an “Eligible Class Member.” Each Eligible Class Member who has a Past Overcharge Amount will receive a disbursement from Defendants in amount of such Eligible Class Member’s Past Overcharge Amount (“Settlement Distributions”) pursuant to paragraph 9 below.

7. To receive payments for Past Overcharge Amounts, Eligible Class Members shall file claims for Settlement Distributions pursuant to the procedures set forth in the Claim Form annexed hereto as Exhibit A. For identity verification purposes, all Claim Forms shall require Eligible Class Members to provide the month and year when their lease(s) commenced and terminated (if applicable) and the addresses of such Eligible Class Member’s leased Unit(s). Any Class Member who does not timely file a Claim Form pursuant to these procedures shall be deemed to have waived and released such Class Member’s Past Overcharge Amount unless such Class Member becomes an Opt-Out. On or before fourteen (14) days prior to the Settlement Hearing, Lead Counsel shall provide Defendants’ counsel with copies of all Claim Forms that were timely and properly filed. On or before seven (7) days prior to the Settlement Hearing, Defendants’ counsel shall confirm its agreement that such Claim Forms were timely and properly filed or identify which Claim Forms it contends were not timely and properly filed. Plaintiffs and Defendants will confer on the resolution of any issues relating to the timeliness and propriety of all disputed Claim Forms. Any such issues that cannot be resolved will be submitted to the Court for determination at or before the Settlement Hearing.

8. Defendants shall pay or cause to be paid into the Cash Settlement Account a total of \$14,750,000.00 (the “Settlement Amount”) pursuant to the terms of the Settlement.

9. Each Eligible Class Member who has a Past Overcharge Amount will receive a disbursement from the Cash Settlement Account in the amount of such Eligible Class Member’s Past Overcharge Amount.

10. If the total Past Overcharge Amounts for all Eligible Class Members exceeds the Net Cash Settlement Amount, then the Past Overcharge Amounts will be paid based on the pro rata share that each Eligible Class Member’s Past Overcharge Amount bears to the total Net Cash Settlement Amount.

11. If the total Past Overcharge Amounts for all Eligible Class Members do not exceed the Net Cash Settlement Amount, any balance remaining shall revert to BPP Parker Tower Property Owner LLC or its successor or assign. If any portion of the Net Cash Settlement Amount remains in the Cash Settlement Account one year after the Effective Date for whatever reason, including the failure to cash payment checks disbursed from the Cash Settlement Account, such balance shall permanently revert to BPP Parker Tower Property Owner LLC or its successor or assign and no Eligible Class Member shall have a claim to such funds.

12. The Past Overcharge Amounts and claims for the Past Overcharge Amounts shall not be assignable or otherwise transferable by Eligible Class Members to any person or entity, other than an Eligible Class Member’s executor, administrator or trustee (for a trust that is in existence as of the Preliminary Approval Date or is a special needs trust) who may file or accept payment of that Class Member’s claim.

13. The Units occupied by a Class Member as of the Effective Date shall all be subject to the RSL with such Class Members entitled to stabilized leases and rents, rights of

renewal and succession, and other benefits under the law, such as the provision of the HCR rider with each lease, pursuant to RSL § 26-511(d). The Court shall enter a stipulated order providing that any Class Member who is then a current occupant of a Unit shall remain rent stabilized and exempt from high-income deregulation during the tenancy but upon such tenant's vacatur, the Unit shall be subject to deregulation if otherwise permitted by law.

14. The stipulated order shall further provide that in the event a Class Member was supplied a J-51 Rider with each lease and lease renewal from the inception of the tenancy through the last lease in effect at the expiration of the J-51 period then that Unit will be deemed deregulated at the expiration of the lease in effect as of the Effective Date if otherwise permitted by law.

#### **PAYMENTS FOLLOWING THE JUDGMENT**

15. Within ten (10) days after the Effective Date, Defendants shall wire transfer into the Cash Settlement Account the Settlement Amount.

#### **ATTORNEY'S FEES**

16. Lead Counsel may apply to the Court, unopposed by Defendants, for a fee award of up to 33.33% of the Settlement Amount and the amount of the Prior Payments, plus out-of-pocket-expenses (the "Attorney's Fees and Expenses Award"), to be paid from the Settlement Amount.

17. Plaintiffs may apply, unopposed by Defendant, to the Court for approval of an incentive award (the "Class Representative Incentive Award") in the amount of \$2,500.00 to each named Plaintiff. The Class Representative Incentive Award shall be paid from the Settlement Amount.

18. Except as expressly provided in this Stipulation, Plaintiffs, Defendants and Lead Counsel shall bear their own fees, costs and expenses.

### **SUBMISSION FOR APPROVAL**

19. Promptly after execution of this Stipulation, Plaintiffs, with Defendants' consent, shall submit this Stipulation with its exhibits to the Court for preliminary approval ("Preliminary Approval") and shall seek entry of the Preliminary Approval Order. Among other matters, the Preliminary Approval Order shall provide for: (a) the preliminary approval of this Stipulation and the declaratory relief sought herein as being fair, just, reasonable and adequate to the Class; (b) the approval of the Notice; (c) the approval of a procedure for the filing of objections, if any; (d) the setting of a date for the Court to hold the Settlement Hearing; and (e) a stay of the proceedings in this Action in accordance with paragraphs 38 through 40 below. The Preliminary Approval Order shall have as an exhibit a schedule identifying all of the Class Members' Units.

20. At or prior to the Settlement Hearing, Plaintiffs, with Defendants' consent, shall request that the Court enter the Order and Final Judgment.

21. The Settlement shall be considered final on the Effective Date.

### **REQUESTS FOR EXCLUSION**

22. Each Class Member will be bound by all provisions of the Stipulation and the Settlement, whether favorable or unfavorable, unless such person mails, by first class mail, a written request for exclusion from the Class, postmarked no later than twenty-one (21) days prior to the Settlement Hearing (the "Bar Date"), addressed to Newman Ferrara LLP, which shall provide reports of such requests to Defendants' counsel upon request. No Class Member may exclude himself, herself or itself from the Class after the Bar Date. In order to be valid, each request for exclusion must: (a) set forth the name and address of the Class Member requesting

exclusion (the “Opt-Out”); (b) provide that such Class Member “requests exclusion from the Class in *Thome, et al. v The Jack Parker Corporation.*, Index No. 152510/2018”; (c) be signed by such Class Member; and (d) include the addresses of all of such Class Member’s leased Unit(s). Requests for exclusion will not be accepted if they do not include the required information or if they are not made within the time stated above, unless they are otherwise accepted by the Court. If one co-tenant of a Unit is an Opt-Out, all co-tenants of that Unit shall likewise be deemed to be Opt-Outs as to each lease term for which they were co-tenants.

23. Opt-Outs will not receive any Settlement Distributions. In any subsequent proceeding, Opt-Outs may make any claim or argument as to the claims alleged in the Complaint and Defendants may raise any defenses available to them whether at law, equity or pursuant to the Order and Final Judgment.

24. Defendants shall have the right to terminate the Settlement if either: (a) 20% or more of the Class Members opt-out of the Settlement; or (b) the aggregate dollar amount that Class Members who opted-out of the Settlement would have received for Past Overcharge Amounts (had they not opted out) exceeds 20% of the Settlement Amount.

#### **SAVINGS CLAUSE**

25. No subsequent legislation enacted by New York State or decision rendered by the courts of New York State, regardless of whether such legislation or decision modifies the terms or interpretation of the RSL or RSC or any other law, code or regulation, that would affect the remedies available to tenants who rented Units at the Buildings (an “Enactment”), including but not limited to Senate Bill 2980-C and Assembly Bill 6216-B, shall modify or override the terms of the Settlement.

**NOTICE**

26. The Notice shall be provided to the Class Members for whom an address or possible address is known by a mailing in substantially the form attached hereto as Exhibit D and by email. Defendants shall supply Lead Counsel, to the extent reasonably accessible, in a confidential manner, each Class Member's: (a) current or last known residential address; and (b) current or last known email address; the foregoing information shall be destroyed by Lead Counsel after all of its duties under this Stipulation are fulfilled. Lead Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to the preparation, mailing and publication of the Notice.

**RELEASES**

27. The Order and Final Judgment shall, among other things, provide for the full and complete dismissal of the Complaint with prejudice.

28. "Released Defendants" means, collectively: Defendants and all of their present and former lenders, investors, affiliates, subsidiaries and parent companies, including without limitation, limited liability companies, partnerships and corporations (including those that are minority-owned), and their respective officers, attorneys, members, principals, shareholders, heirs, executors, administrators, directors, managers, partners, employees, agents, consultants, advisors, or representatives, and the successors and assigns of each of the foregoing, including without limitation, any future owner of the Buildings, with respect to the Settled Plaintiffs' Claims.

29. "Releasing Class Members" means each Plaintiff and Class Member who does not timely and properly opt out of the Settlement, and their respective heirs, successors, trustees, executors, administrators and assigns.

30. “Settled Plaintiffs’ Claims” means all statutory, regulatory, common law or other claims, causes of action, suits, administrative proceedings, arbitrations, liabilities, obligations, expenses, costs, penalties, damages, demands, and/or any other remedies of any nature whatsoever, whether asserted or unasserted, and whether known or unknown, under federal, state, local or any other law, whether legal, equitable or otherwise (including, without limitation, claims arising from or related to alleged misrepresentation or nondisclosure, whether intentional or otherwise), arising at any time on or before the Order and Final Judgment Date, that are based upon or related to, or arise out of, in whole or in part, the facts, transactions, events, occurrences, acts, or failures to act that were or could have been alleged in the Action by any Plaintiff or Class Member against the Released Defendants, including without limitation, damages, penalties, punitive damages, treble damages, liabilities, equitable relief or other remedies relating to (a) the legal regulated rent of any Unit at the Buildings, (b) the rent-regulatory status of any Unit at the Buildings, and/or (c) any other claims arising under the RSL or RSC based on any act, event or alleged failure to act prior to the Order and Final Judgment Date, including but not limited to any claim that a tenant was entitled to any particular legal regulated rent, form of lease, notice, or claim that the Buildings had to be registered with any governmental agency.

31. Subject to the Court’s approval of this Stipulation and entry of the Order and Final Judgment, as of the Effective Date: (a) each Releasing Class Member hereby forever waives, releases, and discharges the Settled Plaintiff’s Claims against each of the Released Defendants even if such Releasing Class Member failed to submit a Claim Form; and (b) each Releasing Class Member shall be permanently enjoined from commencing, prosecuting, or continuing any of the Settled Plaintiffs’ Claims against any of the Released Defendants even if such Releasing Class Member failed to submit a Claim Form.

### CONDITIONS OF SETTLEMENT

32. Defendants deny and continues to deny that they have committed or aided and abetted the commission of any unlawful or wrongful acts alleged in the Action, and expressly maintains that it diligently and scrupulously complied with the RSL, RSC and all other legal obligations. Defendants are entering into the Settlement solely because the proposed Settlement will eliminate the uncertainties, burden and expense of further litigation.

33. Plaintiffs and Lead Counsel believe that the Settlement is fair, reasonable, adequate and in the best interests of the Plaintiffs and the Class. Plaintiffs and Lead Counsel also took into consideration the strengths and weaknesses of the Class's claims and defenses and determined that the terms of the proposed Settlement are fair, reasonable and adequate, and in the best interest of the Class.

34. This Settlement is conditioned upon the fulfillment of each of the following:

- a. The Court approving the Settlement and entry of the Order and Final Judgment, and such approval and Order and Final Judgment having been affirmed on Appeal and/or no longer being subject to Appeal;
- b. The dismissal with prejudice of this Action without the award of any damages, costs, fees, or the grant of any further relief except as provided in this Stipulation; and
- c. The occurrence of the Effective Date without any material change (unless agreed to in writing by all parties) to the terms of the proposed Preliminary Approval Order, Order and Final Judgment and/or this Stipulation.

35. If any of the conditions in paragraph 34 above do not occur for any reason, then any party may terminate this Stipulation by giving ten (10) days' notice to the other parties, in



which event: (a) the Stipulation and any related orders shall be null and void and of no further force or effect; (b) the parties shall revert and be restored to the positions they were in immediately prior to execution of the Stipulation; (c) no statements, agreements or acknowledgements (whether written or oral) made or exchanged in connection with the Stipulation shall be deemed an admission or concession by any party and shall not be admissible for any purpose; (d) the Stipulation shall not be introduced as evidence or referred to in any action or proceeding other than an action or proceeding to enforce the terms thereof; (e) all Settlement Distributions, if any, shall be returned to Defendants; and (f) the Settlement Amount shall revert to Defendants.

**BEST EFFORTS**

36. Plaintiffs and Defendants agree to cooperate fully with one another in seeking the Court's approval of this Stipulation and the Settlement, and to use their best efforts to effect, take, or cause to be taken all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to consummate and make effective, as promptly as practicable, this Stipulation and the Settlement provided for hereunder (including, but not limited to, using their best efforts to resolve any objections raised to the Stipulation and/or the Settlement) and the dismissal of the Action with prejudice and without costs, fees or expenses to any party except as otherwise provided for in this Stipulation.

37. Without further order of the Court, Plaintiffs and Defendants may agree to reasonable extensions of time not expressly set forth by the Court in order to carry out any provisions of this Stipulation.

### **STAY OF PROCEEDINGS**

38. Until the Effective Date, Plaintiffs and Defendants agree to stay this proceeding. Prior to the Effective Date, Plaintiffs and Defendants reserve all of their respective rights with regard any pending motions. Plaintiffs on behalf of themselves and the Class Members will fully cooperate with Defendants to adjourn, mark off-calendar or take any or all other reasonable actions requested by Defendants.

39. The Preliminary Approval Order shall provide that pending final determination of whether the Settlement should be approved, Plaintiffs and all Class Members are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against any of the Released Defendants.

40. Pending the entry of the Preliminary Approval Order and the Effective Date, Defendants are not stayed from taking any actions relating to the leasing or management of the Buildings or enforcement of the terms of leases for Units including, but not limited to, increasing rents for renewal leases, or new vacancy leases, in a manner not inconsistent with the terms of this Stipulation, applicable law, or the current leases in effect.

### **REPRESENTATIONS AND WARRANTIES**

41. Defendant BPP Parker Tower Property Owner LLC represents and warrants that it is the owner of the Buildings.

42. Defendants represent and warrant that they have full authority to enter into this Stipulation, and have authorized their counsel to do so.

43. Plaintiffs represent and warrant that they have full authority to enter into this Stipulation, and have authorized Lead Counsel to do so.

44. Any Class Member who seeks payment of a Past Overcharge Amount from the Settlement Distributions shall in such Class Member's Claim Form represent and warrant that such Class Member is entitled to such reimbursement and has not assigned, pledged, transferred, or lost through bankruptcy, divorce proceeding or any other operation of law the right to the full reimbursement sought.

**STIPULATION NOT AN ADMISSION**

45. The provisions contained in this Stipulation shall not be deemed a presumption, concession, or an admission by Defendants of any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or any other action or proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of this Stipulation or the Settlement.

**MISTAKE**

46. Except as otherwise set forth herein, in entering into the Settlement, Plaintiffs, the Class Members, and Defendants assume the risk of any mistake of fact or law, and if any of them should later discover that any fact they relied upon in entering into the Settlement is not true, or that their understanding of the facts or law was incorrect, then such party shall not be entitled to seek rescission of the Settlement, or otherwise attack the validity of the Settlement, based on any

such mistake. Except as otherwise set forth herein, the Settlement is intended to be final and binding upon the parties regardless of any mistake of fact or law.

#### **RETENTION OF JURISDICTION**

47. The Court shall retain jurisdiction over this Action for purpose of entering orders to: (a) effectuate the implementation of the Settlement; (b) enforce the terms of this Stipulation including, but not limited to, the releases provided herein; (c) hear all claims, defenses and counterclaims relating to the interpretation and enforcement of this Stipulation before and after the Effective Date as the Court deems appropriate; (d) review all challenges to final administrative determinations brought by Opt-Outs; and (e) determine all other matters relevant to this Stipulation.

#### **ENTIRE AGREEMENT**

48. This Stipulation and the Exhibits attached hereto, constitute the entire agreement between the parties hereto concerning the subject matter hereof, and all understandings and agreements heretofore or simultaneously had between the parties are merged in and are contained in the Stipulation and the Exhibits attached hereto. Each of the parties warrants and represents to the others that it has not relied upon any representations or warranties, express or implied, in entering into this Stipulation except those which are expressly set forth in this Stipulation and the Exhibits attached hereto.

#### **GOVERNING LAW**

49. This Stipulation and the Settlement contemplated by it shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to New York's conflict of law rules, as said laws exist on the execution of this Stipulation, subject to the limited exceptions described above.

### **NOTICES**

50. Unless otherwise set forth in this Stipulation, any notice permitted or required to be given under this Stipulation from one party to another shall be given in writing by email and by (a) personal delivery, or (b) a nationally recognized overnight courier sent to the intended addressee(s) at the addresses set forth below, or to such other address(es) or to the attention of such other person(s) as the addressee(s) shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon receipt or refusal to accept delivery. The addresses for giving notice from one party to another pursuant to this Stipulation shall be as follows:

If to Plaintiffs: Newman Ferrara LLP  
1250 Broadway, 27<sup>th</sup> Floor  
New York, NY 10001  
Attn: Roger Sachar ([rsachar@nflfp.com](mailto:rsachar@nflfp.com))

If to Defendants: Greenberg Traurig, LLP  
One Vanderbilt Avenue  
New York, NY 10017  
Attn: Daniel J. Ansell ([anselld@gtlaw.com](mailto:anselld@gtlaw.com)) and  
Attn: Hal Beerman ([Hal.Beerman@gtlaw.com](mailto:Hal.Beerman@gtlaw.com))

### **HEADINGS**

51. The headings in this Stipulation are used for the purpose of convenience only and are not meant to have legal effect.

### **SEVERABILITY**

52. Unless otherwise set forth in this Stipulation, if any provision of this Stipulation is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Stipulation shall nonetheless remain in full force and effect; provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any other party hereunder.

**THIRD-PARTY BENEFICIARIES**

53. There are no third-party beneficiaries under this Stipulation.

**EFFECT OF WAIVER OF BREACH**

54. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation. Unless otherwise stated in this Stipulation, any breach of any provision of this Stipulation by any party to this Stipulation shall not constitute grounds for rescission of this Stipulation, but shall constitute grounds only for a claim for specific performance for breach of this Stipulation.

**CONFIDENTIALITY**

55. Unless otherwise agreed to by Plaintiffs and Defendants, no party or their counsel shall disclose the terms of this Stipulation until it is executed and filed with the Court.

56. If Plaintiffs, Defendants or their respective counsel receive an inquiry about any aspect of the terms and conditions of this Stipulation prior to its filing with the Court, he/she/it will respond only that “the matter is being resolved” or words to that effect. After the Stipulation is filed with the Court, unless otherwise agreed to by Plaintiffs and Defendants, Plaintiffs, Defendants, and their respective counsel shall not publicize on their website, social media or any other platform anything other than reference to the as filed Stipulation. At no point, before or after the Stipulation is filed with Court, unless otherwise agreed to by Plaintiffs and Defendants, Plaintiffs, Defendants, and their respective counsel shall not initiate contact with any third-parties (other than their respective fiduciaries, such as legal or accounting professionals, or their respective employees), including news organizations, concerning the case.

**SUCCESSORS AND ASSIGNS**

57. This Stipulation, and all rights and powers granted hereby, shall be binding upon and inure to the benefit of the parties and their respective agents, executors, heirs, successors, affiliates and assigns. All rights and obligations of Defendants shall be binding on and inure to the benefit of any subsequent owners of the Buildings.

**NO TAX ADVICE**

58. Each party hereto expressly acknowledges that the other parties, or the other parties' counsel, have not provided it with any tax advice with respect to this Stipulation, and that no party or its counsel is obligated to provide any tax advice to any other party.

**COUNTERPARTS**

59. This Stipulation may be executed in multiple counterparts by any of the signatories hereto, including by facsimile or by e-mail, and as so executed shall constitute one agreement, and photocopy or scanned PDF signatures shall be deemed originals for all purposes.

Dated: New York, New York  
September 22, 2023

Dated: New York, New York  
September 22, 2023

By: *Daniel Ansell*

By: *Roger A. Sachar Jr.*

Daniel J. Ansell  
Hal N. Beerman  
GREENBERG TRAURIG, LLP  
One Vanderbilt Avenue  
New York, NY 10017  
*Attorneys for Defendants*

Lucas A. Ferrara  
Roger A. Sachar Jr.  
NEWMAN FERRARA LLP  
1250 Broadway, 27<sup>th</sup> Floor  
New York, NY 10001  
*Attorneys for Plaintiffs and Lead Counsel*

# **EXHIBIT A**





**Parker Towers Class Action  
Claim Form**

I (we) do hereby swear (or affirm) under penalties of perjury, that the information listed above is true and accurate to the best of my (our) knowledge, that I am (we are) entitled to file this Claim Form and receive any cash payments that may be owed as to the above leases under the Settlement of this Action, and that this Claim Form was executed by me (us) at the place(s) and date(s) noted above.

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Date Signature of Tenant Claimant

\_\_\_\_\_  
Print Your Name

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Date Signature of Co-Tenant Claimant (if any)

\_\_\_\_\_  
Print Your Name

*If signed by an authorized Legal Representative of a Claimant or Co-Tenant Claimant:*

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Date Signature of Person Signing for Claimant

\_\_\_\_\_  
Print Your Name

\_\_\_\_\_  
Capacity of Person signing for Claimant  
(e.g., Executor, Administrator, President, etc.)

**REMINDER: YOU MUST SIGN THIS FORM AND MAIL IT POSTMARKED ON OR BEFORE [INSERT DATE]<sup>1</sup> TO LEAD COUNSEL AT NEWMAN FERRARA LLP AT 1250 BROADWAY, 27<sup>TH</sup> FLOOR, NEW YORK, NEW YORK 10001. FAILURE TO DO SO BY THAT DATE WILL RESULT IN FORFEITURE OF ANY CASH PAYMENT TO WHICH YOU MIGHT OTHERWISE BE ENTITLED**

\_\_\_\_\_  
<sup>1</sup> To be inserted following preliminary approval.

# **EXHIBIT B**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

KATHRYN THOME, et al., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

- against -

THE JACK PARKER CORPORATION, et al.,

Defendants.

Index No.: 152510/2018

**[Proposed] Order for Preliminary  
Approval of Class Action Settlement**

Plaintiffs Kathryn Thome, Michael Wilson, Rochelle Berliner, Irwin Reiser, Michel Perez, Inna Los, Dario Solman, Jill Mackenzie, Cassandra Segarra Colon, and Tahmena Haque (“Plaintiffs”) on behalf of themselves and the Class, by and through their counsel, and Defendants The Jack Parker Corporation, Parker Management New York, LLC, Parker Forest Hills L.P., Parker Yellowstone L.P., Parker Queens L.P., BPP Parker Tower Property Owner LLC, Blackstone Property Partners L.P., and Beam Living Company (“Defendants” and together with Plaintiffs, the “Parties”) having applied pursuant to New York Civil Practice Law and Rules (“CPLR”) Rules 907 and 908 for: (a) an order preliminarily approving the proposed settlement (the “Settlement”) of this action (the “Action”); (b) determination of certain matters in connection with the proposed Settlement; and (c) for dismissal, with prejudice, of this Action, in accordance with the terms and conditions of the Stipulation and Agreement of Settlement entered into by the Parties dated [DATE] (the “Stipulation”); and

The Court<sup>1</sup> having read and considered the Stipulation and accompanying affirmations and exhibits, and the Parties having consented to the entry of this Preliminary Approval Order,

**IT IS HEREBY ORDERED THAT:**

1. The Court preliminarily approves the Stipulation and the declaratory relief set forth therein as being fair, reasonable, adequate, consistent with the RSL and RSC and in the best interests of the Class, subject to final determination at the Settlement Hearing.

2. The Settlement Hearing shall be held on the \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_ at \_\_\_ .m., in the Supreme Court of the State of New York, County of New York, Part 23, 71 Thomas Street, Room 311, New York, NY 10013, to:

- a. determine whether the Settlement should be finally approved by the Court as fair, reasonable, adequate and in the best interests of the Class;
- b. determine whether an Order and Final Judgment should be entered pursuant to the Stipulation in the form attached as Exhibit C to the Stipulation;
- c. consider Plaintiffs' application for an award of attorneys' fees and expenses and for the Class Representative Incentive Award; and
- d. rule on such other matters as the Court may deem appropriate.

3. The Court reserves the right to adjourn the Settlement Hearing, including, without limitation, the consideration of the application for attorneys' fees.

4. The Court reserves the right to approve the Settlement at or after the Settlement Hearing with such modification(s) as may be consented to by the Parties without further notice to the Class.

---

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Stipulation.

5. Within twenty (20) business days after the date of entry of this Order, Lead Counsel shall cause a notice of the Settlement Hearing in substantially the form as annexed to the Stipulation (the “Notice”) to be mailed (and, to the extent possible, emailed) to all Class Members. To the extent such information is known and reasonably available as of the date of this Order, Defendant shall supply to Lead Counsel, in a confidential manner, each Class Member’s current or last known residential address, and current or last known email address (to facilitate locating and providing the Notice to former tenant Class Members who may have changed residences multiple times and to representatives of Class Members who may be incapacitated or deceased), which information Lead Counsel shall destroy after all of its duties under this Stipulation are fulfilled. Lead Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to the preparation, mailing and publication of the Notice.

6. The form and method of notice herein is the best notice practicable and constitutes due and sufficient notice of the Settlement Hearing to all persons entitled to receive such a notice.

7. All proceedings in the Action, other than such proceedings as may be necessary to carry out the terms and conditions of the Settlement are hereby stayed and suspended until further order of the Court. Pending final determination of whether the Settlement should be approved, Plaintiffs, and all Class Members, are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in the Action, either directly, representatively, derivatively, or in any other capacity, against Defendants or any of the Released Defendants.

8. Any Class Member who objects to the Settlement, the Order and Final Judgment to be entered in the Action, and/or Lead Counsel’s application for attorneys’ fees, or who otherwise wishes to be heard, may appear in person or by such Class Member’s attorney at the Settlement Hearing and present evidence or argument that may be proper and relevant; provided, however, that, except for good cause shown, no person shall be heard and no papers, briefs, pleadings or other documents submitted by any person shall be considered by the Court unless not later than [DATE] such person files with the Court and serves upon all counsel listed below:

(a) a written notice of intention to appear containing a notarized statement attesting to the fact that such person is a member of the Class, and setting forth the Unit(s) in the Building in which the member resides or resided and the dates of said residence; (b) a detailed statement of such person’s specific position with respect to the matters to be considered at the Settlement Hearing and the grounds therefore; and (c) copies of any papers such person intends the Court to consider. Such filings shall be served by first class mail upon the following counsel:

Roger Sachar Jr., Esq.  
**NEWMAN FERRARA LLP**  
 1250 Broadway, 27<sup>th</sup> Floor  
 New York, NY 10001

Hal Beerman, Esq.  
**GREENBERG TRAUIG, LLP.**  
 One Vanderbilt Avenue  
 New York, NY 10017

*Attorneys for Plaintiffs*

*Attorneys for Defendants*

and then filed with the Clerk of the Supreme Court of the State of New York, County of New York.

9. Unless the Court otherwise directs, no person shall be entitled to object to the approval of the Settlement, any judgment entered thereon, the adequacy of the representation of the Class by Plaintiffs and Lead Counsel, any award of attorneys’ fees, or otherwise be heard, except by serving and filing a written objection and supporting papers and documents as

described above. Any person so objecting shall submit themselves to the personal jurisdiction of this Court for discovery purposes pursuant to the CPLR upon three days' written notice, including, without limitation, submitting to a sworn deposition at a place to be determined by Lead Counsel, interrogatories and other written questions, and requests for production of documents, regarding the objector's standing to object and the basis for such objection. Any person who fails to object in the manner described above shall be deemed to have waived the right to object (including any right of appeal) and shall be forever barred from raising such objection in this or any other action or proceeding.

10. If the Settlement, including any amendment made in accordance with the Stipulation, is not approved by the Court or shall not become effective for any reason whatsoever, the Settlement (including any modification thereof made with the consent of the Parties as provided for in the Stipulation), and any actions taken or to be taken in connection therewith (including this Order and any judgment entered herein) shall be terminated and shall become void and of no further force or effect. In that event, neither the Stipulation, nor any provision contained in the Stipulation, nor any action undertaken pursuant thereto, nor the negotiation thereof by any party shall be deemed an admission or received as evidence in this or any other action or proceeding.

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

---

HON. ERIC SCHUMACHER, J. S. C.



# **EXHIBIT C**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

KATHRYN THOME, *et al.*, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

- against -

THE JACK PARKER CORPORATION, *et al.*,

Defendants.

Index No.: 152510/2018

**[Proposed] Final Order and Judgment  
Approving Class Action Settlement**

**WHEREAS:**

A. On **[INSERT DATE]**, Plaintiffs applied to the Court pursuant to Civil Practice Law and Rules (“CPLR”) Article 9 for an order preliminarily approving the settlement of this litigation (the “Action”) in accordance with the Stipulation and Agreement of Settlement dated **[INSERT DATE]** (the “Stipulation”) that, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of this Action (the “Settlement”) and for a judgment dismissing this Action with prejudice upon the terms and conditions set forth in the Stipulation.

B. In the Preliminary Approval Order of the Settlement of the Class Action dated **[INSERT DATE]** (the “Preliminary Approval Order”), this Court, among other things: (i) preliminarily approved the Settlement; (ii) scheduled a hearing for **[INSERT DATE]** (the “Settlement Hearing”) to consider whether to approve the Settlement as being fair, reasonable, adequate, and consistent with the New York City Rent Stabilization Law (“RSL”) and New York City Rent Stabilization Code (“RSC”), to enter final judgment thereon and to consider an award of attorneys’ fees and expenses; and (iii) directed that notice of the pendency of the Action, the

proposed Settlement and the Settlement Hearing, substantially in the form annexed as Exhibit [X] to the Stipulation (the “Notice”), be mailed (and to the extent possible, emailed) to all Class Members who could be identified with reasonable effort.

C. Lead Counsel has submitted an affirmation attesting that the Notice was disseminated in accordance with the Preliminary Approval Order.

D. Lead Counsel has submitted a list of all Class Members who properly and timely requested exclusion from the Class [a copy of which is attached as Exhibit 1 hereto] [or alternatively: No Class Member has timely requested exclusion from the Class].

E. The Court held a Settlement Hearing on [REDACTED] and has considered all prior proceedings in the Action, the Stipulation and the exhibits annexed thereto, any submissions made in connection with the proposed Settlement and all proceedings during the Settlement Hearing, and no party has terminated the Stipulation in accordance with paragraph [X] thereof.

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

1. To the extent not defined herein, this Order and Final Judgment incorporates by reference the definitions in the Stipulation, and all terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

### **NOTICE**

2. The Court hereby determines that the Notice complied with the requirements of CPLR 904, 907 and 908 and due process and was the best notice practicable under the circumstances and constituted due and sufficient notice to all persons entitled thereto, including individual notice to all Class Members who could be located through reasonable effort. The Notice provided due and adequate notice of these proceedings, the Settlement, an award of

attorneys' fees and expenses, and the other matters set forth therein, to all persons entitled to such notice.

3. Due and adequate notice of the proceedings having been given to the Class Members, and a full opportunity having been offered to the Class Members to object to the proposed Settlement, to participate in the Settlement Hearing thereon or to request exclusion from the Class, it is hereby determined that all Class Members who have not requested exclusion (except as otherwise set forth in the Stipulation) are bound by this Order and Final Judgment (whether or not any Class Member has objected to the Settlement) and are barred from contesting the Stipulation, Settlement or this Order and Final Judgment.

4. Those persons identified in Exhibit 1 hereto shall be excluded from the Class and any benefits under the Settlement and shall not be bound by the Stipulation except as otherwise set forth therein. [Alternatively: No Class Member has timely requested exclusion from the Class.]

#### **DECLARATORY RELIEF**

5. The legal regulated rents for the Units that were occupied by Class Members as of April 2019 do not warrant further reduction or modification.

6. The Units occupied by Class Members as of the Effective Date shall all be subject to the RSL with such Class Members entitled to stabilized leases and rents, rights of renewal and succession, and other benefits under the law, such as the provision of the HCR rider with each lease, pursuant to RSL § 26-511(d). Any Class Member who is an occupant of a Unit as of the Effective Date shall remain rent stabilized during the tenancy, but the Unit shall be subject to deregulation upon such tenant's vacatur if otherwise permitted by law.

7. In the event a Class Member was supplied a J-51 Rider with each lease and lease renewal from the inception of the tenancy through the last lease in effect at the expiration of the J-51 tax benefits then that Unit will be deemed deregulated at the expiration of the lease in effect as of the Effective Date if otherwise permitted by law.

8. Past Overcharge Claims shall not include any amount based on any claim or calculation of treble damages, any other punitive damages, fines or interest (other than 9% interest as provided in the Stipulation). All claims for treble damages, punitive damages, fines and interest (other than 9% interest as provided in the Stipulation) under the RSL, RSC or any other provisions of law are deemed waived and released except as to Opt-Outs.

#### **APPROVAL OF THE SETTLEMENT**

9. Pursuant to CPLR 907 and 908, the Court finds that the Settlement as set forth in the Stipulation is in all respects fair, reasonable and adequate to each Class Member and consistent with the RSL and RSC, and the Settlement is hereby approved by the Court. In making this determination, the Court has considered, among other things, the benefits conferred on the Class by the Settlement, the risks faced by the Class in establishing liability and damages, and the value of settlement now in comparison to the likely probable duration, complexity and further expense of this litigation in the absence of a settlement. The Court further finds that the Settlement has been the product of arm's-length negotiations and has been entered into in good faith. The Parties thereto are directed to consummate the Settlement in accordance with the terms and conditions of the Stipulation.

10. In determining that the Settlement is in all respects fair, reasonable and adequate to each Class Member, and in approving the Settlement, the Court has considered that no [alternatively: X] objections have been raised by Class Members to the Settlement.

11. The Complaint against Defendants in this Action is dismissed on the merits and with prejudice, with each party to bear his, her or its own costs except for the payment of the attorneys' fees and reimbursement of expenses and the Incentive Award to Plaintiffs as provided for in Paragraph [X] below.

**FEES APPROVED**

12. The application by Lead Counsel for the award of attorneys' fees and reimbursement of expenses is granted, and said counsel are awarded legal fees equaling [REDACTED] % of the Settlement Amount, and expenses of \$ [REDACTED]. In addition, each named Plaintiff is awarded a Class Representative Incentive Award in the amount of \$ [REDACTED]. Said fees and expenses and Class Representative Incentive Award shall be paid from the Settlement Amount in the manner prescribed in the Stipulation.

13. If the total Past Overcharge Amounts for all Eligible Class Members do not exceed the Net Cash Settlement Amount, any balance remaining shall revert to Defendant BPP Parker Tower Property Owner LLC.

14. Plaintiffs and all Class Members who have not requested exclusion are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Defendants or any of the Released Defendants.

15. Neither the Stipulation nor any proceedings taken in accordance with the terms set forth therein shall be construed or deemed to be evidence, or any presumption, admission or concession, either (a) on the part of Plaintiffs, of the lack of merit of this Action, or (b) on the part of Defendants, of any violation of any statute, regulation or principle of common law, or of

any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or any other action or proceeding, or that any person or entity has suffered any damages as a result of any matter that underlies any of the allegations or claims that were or could have been brought in the Action, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of this Stipulation or the Settlement. Any such evidence, admission or concession is expressly denied and disclaimed by each of the Plaintiffs and each of the Defendants.

16. Without in any way affecting the finality of this Order and Final Judgment, this Court shall retain continuing jurisdiction over this Action and the Parties to the Stipulation and the Class Members in order to: (a) effectuate the implementation of the Settlement; (b) enforce the terms of this Stipulation including, but not limited to, the releases provided herein; (c) hear all claims, defenses and counterclaims relating to the interpretation and enforcement of this Stipulation before and after the Effective Date as the Court deems appropriate; (d) review all challenges to final administrative determinations brought by Opt-Outs; (e) determine all other matters relevant to this Stipulation; (f) to enter any further orders as may be necessary or appropriate to effectuate the Stipulation, the Settlement, and the provisions of this Order and Final Judgment.

Dated: New York, New York

**ENTER:**

**HON. ERIC SCHUMACHER, J. S. C.**

# **EXHIBIT D**



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

KATHRYN THOME, *et al.*, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

- against -

THE JACK PARKER CORPORATION, *et al.*,

Defendants.

Index No.: 152510/2018

**NOTICE OF PROPOSED  
SETTLEMENT OF CLASS ACTION,  
SETTLEMENT HEARING AND  
RIGHT TO APPEAR, AND  
APPLICATION OF PLAINTIFFS’  
COUNSEL FOR AN AWARD OF  
FEEES AND EXPENSES**

TO: ALL INDIVIDUALS AND ENTITIES WHO RENTED DEREGULATED APARTMENTS  
IN THE BUILDINGS 104-20 QUEENS BOULEVARD, 104-40 QUEENS BOULEVARD,  
AND 104-60 QUEENS BOULEVARD (THE “BUILDINGS”) AT ANY TIME PRIOR TO  
JUNE 30, 2011, AND WHO RESIDED IN THE BUILDINGS AFTER MARCH 21, 2014.

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. IF, AFTER  
REVIEWING THIS NOTICE, YOU HAVE QUESTION REGARDING THE NOTICE, THE  
AMOUNT TO WHICH YOU MAY BE ENTITLED, AND/OR THE AMOUNT OF YOUR  
RENT AFTER FINAL APPROVAL OF THE SETTLEMENT, YOU MAY CONTACT LEAD  
COUNSEL NEWMAN FERRARA LLP, ROGER A. SACHAR, AT 212-619-5400, OR VIA  
EMAIL AT RSACHAR@NFLLP.COM.**

THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF LITIGATION AND  
CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS. YOUR RIGHTS  
WILL BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION. IF YOU TAKE  
NO ACTION AND THE COURT APPROVES THE PROPOSED SETTLEMENT, YOU WILL  
BE FOREVER BARRED FROM CONTESTING THE FAIRNESS, REASONABLENESS OR  
ADEQUACY OF THE PROPOSED SETTLEMENT, OR FROM PURSUING ANY OF THE  
SETTLED CLAIMS.

**AFTER REVIEWING THIS NOTICE, YOU MAY FILE A CLAIM TO RECOVER ANY  
DAMAGES FOR PAST RENT OVERCHARGES THAT YOU MAY BE ENTITLED TO  
RECEIVE UNDER THE SETTLEMENT, BUT YOU MUST FOLLOW THE  
INSTRUCTIONS IN SECTION III BELOW AND IN THE ATTACHED CLAIM FORM.  
FAILURE TO FOLLOW THOSE INSTRUCTIONS WITHIN THE TIME FRAME  
REQUIRED COULD RESULT IN A WAIVER AND FORFEITURE OF YOUR  
DAMAGES AWARD.**

## I. PURPOSE OF THIS NOTICE

**THIS NOTICE IS GIVEN** pursuant to an Order (the “Preliminary Approval Order”) of the New York State Supreme Court, New York County (the “Court”) entered in the above-captioned class action (the “Action”) brought on behalf of persons and entities who rented certain apartments (the “Units”) at the Buildings. The purpose of this Notice is to inform you of the proposed settlement of the Action (the “Settlement”), and of a hearing (the “Settlement Hearing”) to be held before the Honorable Eric Schumacher in Supreme Court of the State of New York, County of New York, 71 Thomas Street, Room 311, New York, New York, at [REDACTED] .m. on [REDACTED]. The purpose of the Settlement Hearing is (i) to determine whether the proposed Settlement, as set forth in a Stipulation and Agreement of Settlement entered into by the parties to the Action and dated as of [REDACTED], 2023 (the “Stipulation”), is fair, reasonable, adequate, in the best interests of the Class (defined below), is consistent with the New York Rent Stabilization Law (“RSL”) and Rent Stabilization Code (“RSC”), and should be approved by the Court; (ii) to determine whether a judgment should be entered in the Action pursuant to the proposed Settlement that will, among other things, dismiss the Complaint (defined below) with prejudice and release the Released Claims (defined below); (iii) to consider the application of Plaintiffs’ counsel for an award of attorneys’ fees and expenses; and (iv) to consider such other matters as the Court may deem appropriate.

The Court has determined that the Action shall be maintained as a class action under New York Civil Practice Law and Rules (“CPLR”) 901, *et seq.*, consisting of all tenants at the Buildings living, or who had lived, in apartments that were deregulated prior to June 30, 2011 (the date when J-51 tax benefits at the Buildings expired), except that the class shall not include: (i) any tenants who vacated such apartments prior to March 21, 2014; or (ii) any tenants whose occupancy in such apartments commenced after such J-51 tax benefits to the Buildings ended.

This Notice describes the rights you may have under the Settlement and what steps you may take in relation to the Settlement.

If the Court approves the Settlement, the parties to the Action will ask the Court to enter an Order and Final Judgment (defined below) dismissing the Complaint with prejudice on the merits. You may review copies of the Stipulation, Preliminary Approval Order and other pertinent documents by visiting [www.nfilp.com/ParkerTowerssettlement.com](http://www.nfilp.com/ParkerTowerssettlement.com)

## II. DESCRIPTION OF THE LITIGATION

On March 21, 2018, Plaintiffs Kathryn Thome, Michael Wilson, Rochelle Berliner, Irwin Reiser, Michel Perez, Inna Los, Dario Solman, Jill Mackenzie, Cassandra Segarra Colon, and Tahmena Haque (“Plaintiffs”) filed a putative class action complaint (“Complaint”) challenging the rent stabilization status of the apartments at the Buildings. According to the allegations in the Complaint, certain tenants did not receive rent-stabilized leases and were charged rents in excess of the legal rent in violation of the Rent Stabilization Code and Rent Stabilization Law. The Complaint alleges that the Buildings received tax abatements and/or exemptions pursuant to the New York City J-51 tax abatement program (the “J-51 Program”) under the New York Real Property Tax Law (“RPTL”). In 1993, the New York State Legislature enacted the Rent

Regulation Reform Act, which permitted rent-stabilized apartments for which the legal rent was \$2,000 per month or more and were either vacant or occupied by tenants with a combined annual income of greater than \$250,000 per year to be removed from rent stabilization (the so-called “Luxury Deregulation Rule”). Certain Units in the Buildings were treated as deregulated pursuant to the Luxury Deregulation Rule. The Complaint alleges that this deregulation was improper because apartments in buildings receiving J-51 benefits were barred from luxury deregulation. The Complaint further alleges that tenants in buildings receiving J-51 benefits are entitled to a rider (the “J-51 Rider”) disclosing that the building is receiving J-51 benefits, and the date those benefits expire, and that, according to the J-51 Program’s rules, failure to provide the J-51 Rider entitled tenants to rent-stabilized leases for as long as they (or their successors) occupy their units. As remedies, the Plaintiffs sought: (a) monetary damages for the alleged overcharge of tenants in the Units; and (b) a declaration that future rents were to be set at levels determined by the RSL and RSC.

Defendants dispute the aforementioned allegations and deny any wrongdoing.

To avoid the costs, distractions and uncertainties of litigation, Plaintiffs and Defendants have agreed to the resolution of the Action pursuant to the terms and conditions set forth in the Stipulation, and summarized below, which shall be presented to the Court for final approval pursuant to CPLR 908 after this notice is delivered to members of the Class.

On the basis of information available to them, including publicly available information, documents produced in the litigation, and documentation made available by Defendants in connection with settlement discussions, Lead Counsel and Plaintiffs have determined that the Settlement described herein is fair, reasonable, adequate, consistent with the RSL and RSC, and in the best interests of the Plaintiffs and the Class.

EXCEPT WHERE EXPRESSLY STATED OTHERWISE, THE FOREGOING DESCRIPTION OF THE LITIGATION DOES NOT CONSTITUTE FINDINGS OF THE COURT OR ADMISSIONS BY THE PARTIES AND SHOULD NOT BE UNDERSTOOD AS AN EXPRESSION OF ANY OPINION OF THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES RAISED BY ANY OF THE PARTIES.

### **III. SUMMARY OF THE SETTLEMENT TERMS**

Any member of the Class who has timely and properly filed a Claim Form (and does not opt out as described in Section V below) is an “Eligible Class Member.” Each Eligible Class Member who makes a claim will receive a disbursement of cash from the Cash Settlement Account (defined below) in the amount of such Eligible Class Member’s Past Overcharge Amount(s) (the “Settlement Amounts”). Defendants will contribute \$14,750,000.00 (minus any arrearages,) into the Cash Settlement Account. If the total Past Overcharge Amount for all Eligible Class Members exceeds the available funds in the Cash Settlement Account (the “Net Cash Settlement Amount”), then the Past Overcharge Amount will be paid or credited based on the pro rata share that each Eligible Class Member’s Past Overcharge Amount bears to the total Net Cash Settlement Amount.

The calculation of each Eligible Class Member's Past Overcharge Amount shall be calculated as follows:

**First**, a "Calculated Amount" is established, which is the lowest rent registered pursuant to RSC § 2528.3 for a comparable unit in the Building in which the Unit at issue is located in effect on the date that the Class Member for occupied such Unit..

**Second**, if an Eligible Class Member between March 21, 2014 and the Preliminary Approval Date paid rent in excess of the Calculated Amount, the Eligible Class Member shall be entitled to a refund of the difference between the amount of rent actually paid, and the Calculated Amount, plus simple interest at the rate of nine (9) per centum per year, calculated from the first date of each month occurred (the "Past Overcharge Amount").

**Third**, the Past Overcharge Amount shall be reduced by any amount due and owing to Landlord ("Non-Payment Claims") by the Eligible Class Member.

Past Overcharge Amounts and claims for Past Overcharge Amounts shall not be assignable or otherwise transferable by Eligible Class Members to any person or entity, other than Eligible Class Member's executor, administrator or trustee (for a trust that is in existence as of the Preliminary Approval Date or is a special needs trust) who may file or accept payment of that Class Member's claim.

If the Eligible Class Member for a particular lease term consists of two or more co-tenants, the Past Overcharge Amount will be divided equally among them. Settlement Distributions shall be made to only those co-tenants who timely submit a Claim Form. Any Non-Payment Claims are deemed to be made against each co-tenant, jointly and severally, who submit a Claim Form, even if other co-tenants exist but fail to submit a Claim Form (unless any other co-tenant opts out, in which case all the co-tenants shall be deemed to have opted out, including those co-tenants who timely submit a Claim Form). Any disputes among co-tenants concerning the allocation of any Settlement Distributions under this Settlement must be addressed and resolved amongst the co-tenants outside the scope of this Settlement, and the existence of any such actual or potential disputes shall not be a basis for objecting to the Settlement and shall be without recourse to Landlord and without any liability to any of the parties to this Stipulation.

For Class Members who are current tenants of the Buildings, there shall be no further rent reductions other than those which have already occurred.

Any deduction from any Past Overcharge Amount based on a Non-Payment Claim as discussed above shall be remitted to Landlord at the time Settlement Distributions are made. Any such payments to Landlord will reduce any amount owed by an Eligible Class Member, but such Eligible Class Member shall remain liable to Landlord for any balance remaining due after such payments. Any rent payment plan entered into by a Class Member with Landlord prior to the Order and Final Judgment Date shall be accelerated and treated as a Non-Payment Claim. If the amount owed under such payment plan exceeds the Past Overcharge Amount, then no Settlement Distribution shall be made and the remaining rental arrears shall be due and payable pursuant to the payment plan. Any Eligible Class Member may submit an objection to Landlord's Non-

Payment Claim and any supporting documentation or other materials (the “NPC Objections”). Plaintiffs and Defendants will confer on the resolution of all NPC Objections. All NPC Objections that cannot be resolved will be submitted to the Court for determination.

TO RECEIVE ANY DAMAGES TO WHICH YOU MAY BE ENTITLED, YOU MUST FILE A CLAIM FOR SETTLEMENT DISTRIBUTIONS BY COMPLETING THE ATTACHED CLAIM FORM AND MAILING IT POSTMARKED ON OR BEFORE [DATE] TO LEAD COUNSEL AT THE ADDRESS LISTED ON THE FORM.

For identity verification purposes, all Claim Forms shall require Class Members to provide the month and year when their lease(s) commenced and terminated and the addresses of such Class Member’s leased Unit(s). Class Members who do not timely file a Claim Form pursuant to these procedures shall be deemed to have waived and released their Past Overcharge Amounts but shall nonetheless remain subject to the applicable releases discussed below unless he, she or it becomes an Opt-Out. Determinations as to whether a Claim Form has been timely and properly filed shall be resolved by Plaintiffs and Defendants or, if necessary, the Court.

Any claims for treble damages, any other punitive damages, fines or interest (other than 9% simple interest referenced above) are waived under the Settlement.

If you wish to opt out (defined below) of this damages portion of the Settlement, you may do so by the procedures outlined below at Section V, “Your Right to Opt Out.” If you do so, you will not be entitled to any monetary payment under this Settlement, but you may retain the right to seek past damages in an independent action or proceeding. Please read Section V carefully before opting out, as it sets forth additional risks those who opt out (“Opt-Outs”) may potentially face.

#### **IV. RELEASES**

The Stipulation provides that if the Settlement is approved by the Court, a judgment will be entered dismissing the Complaint with prejudice, and containing a broad release applicable to you, both individually and on behalf of all other members of the Class. All Class Members (other than Opt-Outs), whether or not they submit a Claim Form, will release all Defendants and certain related parties from all claims that were or could have been made in the Action, including without limitation, damages, penalties, punitive damages, treble damages, liabilities or other remedies relating to (a) the Class Members’ residential rents at the Buildings, (b) the rent-regulated status of any Units at the Buildings, and/or (c) any other claims arising under the RSL or RSC based on any act, event or alleged failure to act prior to the Order and Final Judgment Date, including but not limited to any claim that a Class Member was entitled to any particular form of lease, notice, or that the Buildings had to be registered with any governmental agency (the “Released Claims”).

The full language of the releases is set forth in the Stipulation.

## V. YOUR RIGHT TO OPT OUT

You may choose to be excluded from the provisions of the Settlement. If you choose to be excluded (“opt out”) you will not receive any cash payment as a result of this Settlement, and you may seek damages by bringing an independent action or proceeding on your own behalf.

Each Class Member will be bound by all provisions of the Stipulation and the Settlement, whether favorable or unfavorable, unless such person mails, by first class mail, a written request for exclusion from the Class, postmarked no later than [DATE] (the “Bar Date”), addressed to Lead Counsel, which shall provide daily reports of such requests to each of the parties’ attorneys. **No Class Member may exclude himself, herself or itself from the Class after the Bar Date.**

In order to be valid, each request for exclusion must: (a) set forth the name and address of the Class Member requesting exclusion (the “Opt-Out”); (b) provide that such Class Member “requests exclusion from the Class in *Thome, et al. v. The Jack Parker Corporation, et al.* (Index No. 152510/2018)”; (c) be signed by such Class Member; and (d) include the addresses of all of such Class Member’s leased Unit(s). **Requests for exclusion will not be accepted if they do not include the required information or if they are not made within the time stated above, unless they are otherwise accepted by the Court.**

Opt-Outs will not receive any Settlement Distributions. In any subsequent proceeding, Opt-Outs may make any claim or argument as to Past Overcharge Amounts belonging to such Opt-Outs and Defendants may raise any defenses available to them whether at law, equity or pursuant to the Order and Final Judgment.

## VI. REASONS FOR THE SETTLEMENT

Defendants asserts various defenses to this action, including that their conduct did not violate the rent regulations. Nevertheless, Defendants are entering into the Settlement solely because the proposed Settlement will eliminate the uncertainties, burden and expense of further litigation.

Plaintiffs and Lead Counsel believe that the Settlement is fair, reasonable, adequate and in the best interests of the Plaintiffs and the Class. Plaintiffs and Lead Counsel also took into consideration the strengths and weaknesses of the Class claims and defenses and determined that the terms of the proposed Settlement are fair, reasonable and adequate, and in the best interest of the Class.

## VII. CONDITIONS OF SETTLEMENT

This Settlement is conditioned upon the fulfillment of a series of conditions which relate to, among other things, final court approval, dismissal of the Complaint with prejudice, and the occurrence of the Effective Date without any material change to the terms of the Stipulation (unless agreed to in writing by the parties). If any of the conditions do not come to pass, the Settlement shall be null and void, and no party shall be prejudiced by having signed the Stipulation.

## **VIII. FINAL ORDER AND JUDGMENT**

If the Settlement (including any modification thereto made with the consent of the parties) shall be approved by the Court following the Settlement Hearing as fair, reasonable, and adequate and in the best interests of the Class, an Order and Final Judgment shall be entered in substantially the same form attached as Exhibit C to the Stipulation. The approval of the Settlement by the Court shall be considered final for purposes of the Stipulation upon the first day following the last of the following occurrences (the “Effective Date”): (a) the last date to file an Appeal or seek permission to Appeal has expired with no Appeal having been taken or sought; or (b) if any Appeal is taken or sought, the date a remittitur or order is entered by a court: (i) affirming the Order and Final Judgment or denying or dismissing any Appeal from the Order and Final Judgment, and any Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; (ii) reversing or modifying the Order and Final Judgment in any non-material respect and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally denied or dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; and (iii) reversing or modifying the Order and Final Judgment in a material respect provided Plaintiffs and Defendants agree in writing to remain bound to the Settlement as reversed or modified and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom. For purposes of this definition, a reversal or modification shall be deemed “material” if it materially affects any term of this Stipulation.

## **IX. PLAINTIFFS’ ATTORNEYS’ FEES AND EXPENSES, AND OTHER PAYMENTS**

Lead Counsel may apply to the Court, unopposed by Defendants, for a fee award of up to 33.33% of the Settlement Amount, plus out of pocket expenses (the “Attorney’s Fees and Expenses Award”), to be paid from the Settlement Amount, as well as for a Class Representative Incentive Award in the amount of up to \$2,500.00.

## **X. STAY OF PROCEEDINGS**

Pending final determination of whether the Settlement should be approved, you are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Defendants or any of the parties released as set forth in Section IV.

## **XI. SUCCESSORS AND ASSIGNS**

The Stipulation and all its terms will be binding on you and any agent, heir, affiliate, successor, executor, affiliate, and assign of yours, as well as any agent, executor, heir, affiliate, successor and assign of any Defendants.

## XII. CHOICE OF LAW

The parties have agreed that the Stipulation and the Settlement contemplated by it shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to New York's conflict of law rules, as said laws exist on the execution of the Stipulation.

## XIII. SETTLEMENT HEARING AND RIGHT TO APPEAR

You have the right to appear in person or through an attorney in Court at the Settlement Hearing and object to the proposed Settlement, or to otherwise be heard at the Settlement Hearing. You may present any evidence or argument that may be proper and relevant. However, to do so, you must, by no later than [DATE], file with the Clerk of Court and serve notice of your intent to appear by hand or by first class mail, postage prepaid, upon counsel for the parties, as specified below:

Roger Sachar Jr., Esq.  
**NEWMAN FERRARA LLP**  
1250 Broadway, 27<sup>th</sup> Floor  
New York, NY 10001

*Attorneys for Plaintiffs*

Hal Beerman, Esq.  
**GREENBERG TRAURIG, LLP**  
One Vanderbilt Avenue  
New York, NY 10017

*Attorneys for Defendants*

Such notice shall contain: (a) a written notice of intention to appear containing a notarized statement attesting to the fact that such person is a member of the Class, and setting forth the Unit(s) in the Buildings in which the member resides or resided and the dates of said residence; (b) a detailed statement of such person's specific position with respect to the matters to be considered at the Settlement Hearing and the grounds therefore; and (c) copies of any papers such person intends the Court to consider.

Any member of the Class who fails to object in the above-prescribed manner shall be deemed to have waived his, her or its objection and shall be barred from raising such objection in this or any other action or proceeding.

Any Class Member who files and serves such a notice will be subject to discovery procedures by the parties' counsel to enable counsel to explore the objector's standing to object and the basis for the objection, as well as other relevant matters. Such discovery procedures may include without limitation taking your testimony under oath, demanding your answers to interrogatories or other written questions, and compelling production of documents and other relevant materials by you. All such discovery will be conducted and completed before the Settlement Hearing. By filing and serving such a notice, you will be deemed to have consented to conducting all such discovery on an expedited basis on three (3) days' written notice served upon you or your counsel, should you hire counsel.

Members of the Settlement Class who have no objection to the proposed Settlement do not need to appear at the Settlement Hearing or take any other action. If the Settlement is not approved,



the case will continue and the Stipulation and the proposed Settlement shall become null and void and of no further force or effect.

#### **XIV. DISMISSAL OF THE ACTION**

If the Court approves the proposed Settlement, the Court will enter a judgment:

- 1) approving the proposed Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and directing consummation of the proposed Settlement, in accordance with the terms and conditions of the Stipulation;
- 2) dismissing the Action with prejudice on the merits, without costs except as provided in the Stipulation;
- 3) permanently barring and enjoining any and all Class Members (other than opt-outs) from instituting, commencing, prosecuting, participating in or continuing any action or other proceeding in any court or tribunal of this or any other jurisdiction, either directly, representatively, derivatively or in any other capacity, asserting any claims that arise out of, or in any way relate to, the Released Claims;
- 4) awarding Lead Counsel such fees and expenses as the Court deems appropriate, as well as awarding the Class Representative Incentive Award; and
- 5) reserving jurisdiction over all matters related to the consummation of the proposed Settlement.

The Court has the right to approve the proposed Settlement with modifications and without further notice to members of the Class. The Court may also adjourn the Settlement Hearing or any previous adjournment thereof without further notice other than to counsel for the parties.

#### **XV. SCOPE OF THIS NOTICE**

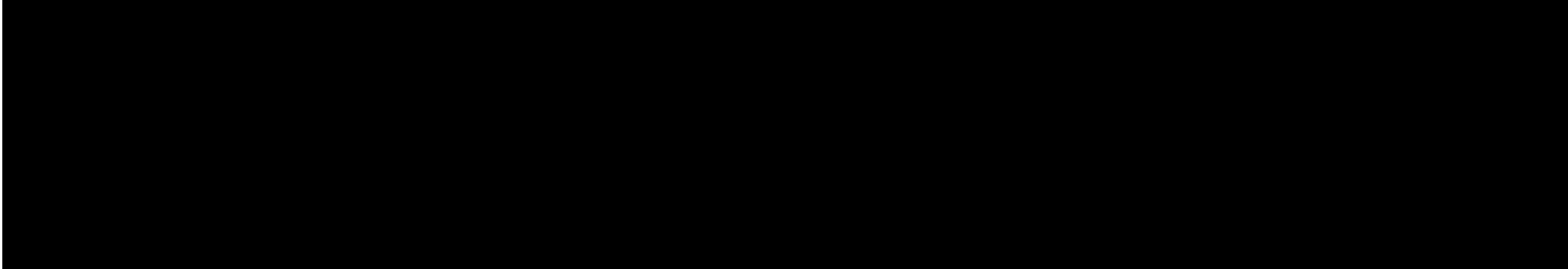
The foregoing description of the Action, the Settlement Hearing, the terms of the proposed Settlement and other matters described herein does not purport to be comprehensive. The references in this Notice to the pleadings in the Action, the Stipulation and other papers and proceedings are only summaries and do not purport to be comprehensive. For the full details of the Action, the claims that have been asserted by the parties and the terms and conditions of the Settlement, including a complete copy of the Stipulation and related orders and proposed forms of orders, members of the Class are referred to the Court files for the Action. You or your attorney may examine the public Court files during regular business hours of each business day at the offices of the Clerk, Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, New York 10007. The index number for the Action is 152510/2018.

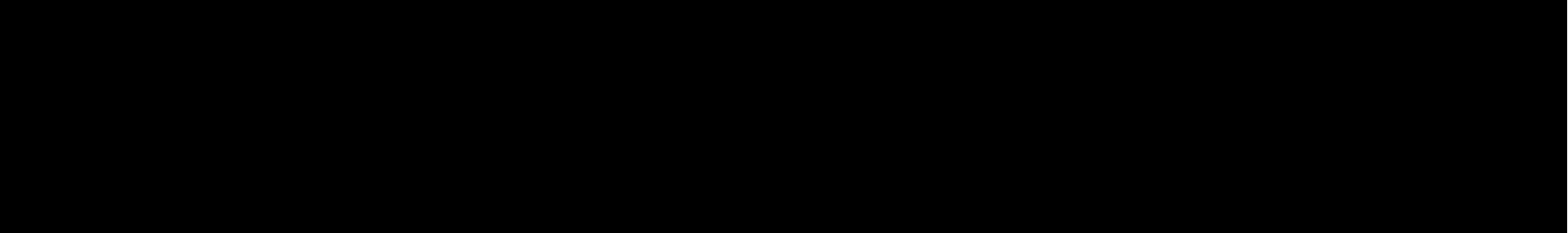
**XVI. FURTHER INFORMATION**

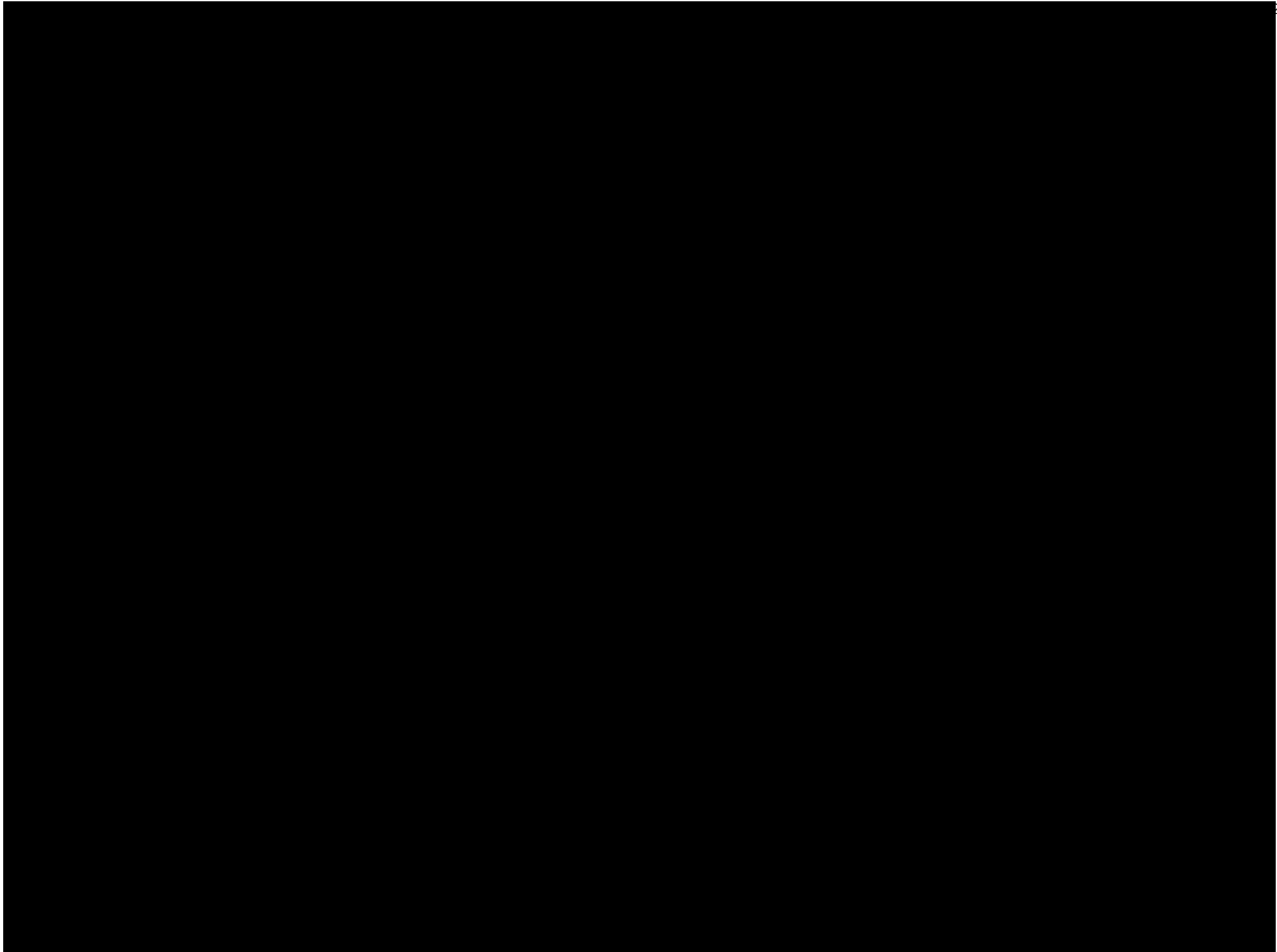
**Any questions you have about the matters in this Notice should NOT be directed to the Court, but should instead be directed by telephone or in writing to Lead Counsel:**

Roger A. Sachar Jr.  
**NEWMAN FERRARA LLP**  
1250 Broadway, 27<sup>th</sup> Floor  
New York, NY 10001  
Tel: (212) 619-5400  
rsachar@nflp.com

**EXHIBIT E**









# **EXHIBIT F**



N

23



