

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

EDWARD WALDRON II, TRACI BREWER,  
SHEILA PAGE, BARBARA RIDDLE,  
and all others similarly situated,

Plaintiffs,

vs.

Case No. 06-615173-NZ  
Hon. Wendy M. Baxter

REPUBLIC SERVICES OF MICHIGAN I,  
LLC., a Michigan limited liability company,

Defendant.

---

**MACUGA, LIDDLE & DUBIN, P.C.**  
**Steven D. Liddle (P45110)**  
**David R. Dubin (P52521)**  
**975 E. Jefferson Avenue**  
**Detroit MI 48207-3101**  
**(313) 392-0015**  
**Attorneys for Plaintiffs**

**BERRY REYNOLDS & ROGOWSKI, PC**  
**David H. Oermann (P36696)**  
**Ronald E. Reynolds (P40524)**  
**Joseph M. Rogowski, II (P51316)**  
**33493 W. 14 Mile Road, Ste. 100**  
**Farmington Hills, MI 48331-1587**  
**(248) 851-3434**  
**Attorneys for Defendant**

---

**STIPULATION OF SETTLEMENT AND RELEASE AGREEMENT**

IT IS STIPULATED AND AGREED by and among Edward Waldron II, Traci Brewer, Sheila Page and Barbara Riddle, and all others similarly situated, in their individual and class representative capacity ("Plaintiffs"), and Republic Services of Michigan I, L.L.C. ("Republic"), through their respective counsel, that the above-captioned lawsuit is settled and dismissed on the merits and with prejudice on the terms set forth below in this Stipulation of Settlement and Release Agreement (this "Stipulation") dated October 28, 2009, subject to the approval of the Court. Plaintiffs and Republic are sometimes collectively referred to as "the Parties".

## **1. Background**

1.1 On May 26, 2006, Plaintiffs, individually and on behalf of “all others similarly situated”, filed a Complaint, being Case No. 06-615173-NZ, alleging damages arising from Republic maintaining and operating a landfill facility located at 28800 Clark Road, New Boston, Michigan, commonly known as the Carleton Farms Landfill (“the Action”). The Action alleges, among other things, that Plaintiffs and all others similarly situated suffered damages and injuries to their “person and property by noxious odors and air contaminates” “originating from” and “emitted by” Republic’s Carleton Farms Landfill as a result of Republic’s operation of and maintaining the Carleton Farms Landfill. The Action further alleges “Plaintiffs person and property have been physically invaded by noxious odors and air contaminates” released by Republic’s operation of and maintaining the Carleton Farms Landfill and that such invasion has caused the following harm and injuries to Plaintiffs: a “diminution in the market value of Plaintiffs’ property”; “interference with Plaintiffs’ use and enjoyment of their property”; and “mental anguish, suffering, anxiety, embarrassment, humiliation, distress, agony and other related nervous conditions”.

The Action asserts claims for nuisance, negligence and gross negligence seeking both compensatory and exemplary damages. The Action is brought as a putative class action on behalf of Plaintiffs and “all others similarly situated”. Plaintiffs’ class includes all persons within a defined geographic area. Republic filed an Answer and Affirmative Defenses denying any liability.

1.2 After full briefing by the Parties and hearings in open court, the Court on two occasions granted Plaintiffs’ motion for class certification. Republic appealed both

class certifications by the Court. The Michigan Court of Appeals vacated the first court order dated February 22, 2008 certifying the alleged Class and remanded the case to the Court for further proceedings. The Court certified a class a second time in its order dated December 18, 2008 and Republic again sought leave to appeal. Rather than reaching a decision and remanding the case to the Court, in this instance the Michigan Court of Appeals granted leave to appeal on June 16, 2009 with respect to the second order certifying the Class to decide the issue of whether class certification is appropriate. Republic's appeal is still pending.

1.3 From the inception of this Action, the Parties commenced extensive discovery regarding the claims and defenses at issue and also concerning class certification issues. Such discovery included the production and analysis of thousands of pages of documents, gathering, subpoenaing and analyzing documents from third parties, responding to interrogatories, fact witness depositions, Plaintiffs' depositions, Republic's depositions, expert site inspection and expert analysis and reports regarding damages and air emissions.

In addition to such discovery, Plaintiffs' counsel ("Class Counsel") and Plaintiffs have made a comprehensive and thorough investigation of the claims and allegations asserted in the Action, the facts and circumstances relevant thereto, and have conducted legal research concerning the viability of Plaintiffs' claims. In evaluating the terms of this Stipulation, Plaintiffs and Class Counsel have considered: (a) the consideration agreed to be paid, as set forth below; (b) the substantial benefits that would inure to the Class, including those derived from the Improvement Measures; (c) the attendant risks of litigation and the uncertainty of the outcome of the Action,

especially in view of Republic's pending appeal; (d) the desirability of permitting the settlement to be consummated as provided by the terms of this Stipulation; (e) whether the terms and conditions of this Stipulation are fair, reasonable and adequate; and (f) whether it is in the best interests of the members of the Class to settle the Action as set forth in this Stipulation.

1.4 As a result of Republic's then pending application seeking leave to appeal the second ruling on class certification, the Parties agreed to discuss whether there was any possibility for settlement. As such, the Parties engaged an independent third party, former Michigan State Bar President and trial attorney Thomas W. Cranmer, to conduct a facilitation regarding settlement possibilities. Mr. Cranmer conducted extensive negotiations on March 3 and 4, 2009 with the Parties and their counsel lasting more than 11 hours. In addition, during March 2009 Mr. Cranmer conducted telephonic negotiations with the Parties' counsel after the face to face facilitation. At the conclusion of the facilitation and these further telephonic negotiations, the Parties were unable to agree to a settlement.

Nevertheless, after the Michigan Court of Appeals granted Republic's application for leave to appeal on June 16, 2009 which allowed Republic to appeal the Court's second ruling on class certification, the Parties began to again engage in further lengthy and vigorous arm's-length negotiations throughout the months of July and August 2009 about a possible settlement of the claims in the Action. As a result of such negotiations, the Parties have now agreed to terms upon which the Action will be settled.

1.5 Plaintiffs, individually and on behalf of the Class members, voluntarily and with full knowledge of their rights in the provisions of this Stipulation and having the

benefit and advice of Class Counsel, now desires to settle, compromise, and dispose of the Action and all Claims the named Plaintiffs and the Class Members have or might have against Republic arising from its operation of the Carleton Farms Landfill, and to dismiss the Action with prejudice and to settle with and release Republic upon the terms and conditions set forth below.

## **2. No Admission of Liability or Wrongdoing**

2.1 Republic expressly denies any wrongdoing alleged in the Action, in the Complaint, or in other papers filed in the Action, and does not admit or concede any actual or potential fault, wrongdoing, or liability in connection with any facts or claims, which have been or could have been alleged against it in the Action.

2.2 Nothing contained in this Stipulation shall be construed as an admission by Republic as to the merit or lack of merit of any particular claim or defense.

2.3 Republic, nevertheless, considers it desirable for the Action to be settled and dismissed because this Stipulation will: (i) allow Republic to avoid further litigation expense and disruption of the management and operation of its business due to the pendency and defense of the Action; (ii) put Plaintiffs' claims and the underlying matters to rest; and (iii) avoid the substantial expense, burdens, and uncertainties associated with a possible finding of liability and damages for Plaintiffs and the Class on the claims raised in the Action.

## **3. Plaintiffs' Litigation Efforts**

Before and after commencing the Action and during settlement negotiations, Class Counsel conducted a thorough examination and evaluation of the relevant law and facts to assess the merits of Plaintiffs' claims and potential claims and to determine

how best to serve the interests of Plaintiffs and the putative class. In the course of this examination, Class Counsel retained and consulted with environmental and landfill experts concerning the merits of Plaintiffs' claims and the defenses asserted by Republic. In particular, during the course of the Action, Class Counsel conducted extensive discovery and had their experts conduct an analysis which has allowed Plaintiffs' counsel to verify that the terms of this Stipulation are fair and adequate. This discovery included: a survey and analysis of the neighborhood surrounding Republic's facility; a site inspection of Republic's facility by Plaintiffs' experts; a photographic and video recording of Republic's facility during its operation; depositions; analysis of approximately 40,000 pages of Republic's and Wayne County's environmental and business documents; attendance at MDEQ public hearings regarding the conduct of Republic's operations; analysis of MDEQ and Wayne County records and reports concerning Republic's operations; meetings with families in the neighborhood surrounding Republic's Carleton Farms Landfill; the collection and analysis of information from hundreds of families in the area surrounding the Carleton Farms Landfill and the responding to and analyzing the answers to hundreds interrogatories and document requests propounded by the Parties. In addition, Class Counsel has analyzed the current status of the Action, including the pendency of Republic's appeal and the risk which may result in the appellate court vacating the class certification and making it improbable for class certification to be achieved.

#### **4. The Settlement**

4.1 Based upon their discovery, investigation, and evaluation of the facts and law relating to the matters alleged in the Action, Plaintiffs, Class Counsel and the Class

have agreed to settle the Action, pursuant to the terms of this Stipulation, after considering such factors as: (i) the substantial benefits to Plaintiffs and the Class under the terms of this Stipulation; (ii) the uncertainty of being able to prove the allegations in the Action; (iii) the uncertainty of being able to overcome Republic's defenses thereto, including, but not limited to, defenses based on: statutes of limitations, lack of damages, full use and enjoyment of the neighborhood, failure to meet class certification standards, laches; causation; waiver; the alleged conduct being in compliance with applicable state environmental laws; and Republic acting in good faith; (iv) the attendant risks of litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in such litigation, especially given Republic's pending appeal of class certification; (v) Republic's motions in limine to be filed; and (vi) the desirability of consummating this Stipulation promptly, in order to provide effective relief to Plaintiffs and the Class without delay.

4.2 Plaintiffs aver that, in light of *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997), it is appropriate for the Court to certify the Class for settlement purposes only.

## 5. Definitions

As used in this Stipulation and the attached exhibits (which are an integral part of this Stipulation and are incorporated in their entirety by this reference), the following terms have the following meanings, unless a part or subpart of this Stipulation or its exhibits provides otherwise:

5.1 “**Action**” means the entire lawsuit styled between *Edward Waldron II, Traci Brewer, Sheila Page, Barbara Riddle and all others similarly situated v. Republic*

Services of Michigan I, L.L.C., Case No. 06-615173-NZ, pending in the Circuit Court of Wayne County, Detroit, Michigan and pending in the Michigan Court of Appeals, Docket No. 290205, including pleadings, briefs, motions and discovery materials in the Action.

5.2 “**Administrator**” means any third party agent or administrator whom the Parties may retain to help implement the terms of the Stipulation.

5.3 “**Claim Form**” means the affidavit claim form which Class Members may complete which is described below in Section 14 and is similar in form to Exhibit F attached to this Stipulation.

5.4 “**Class**”, “**Class Member**” and “**Class Members**” shall mean as follows:

All persons who reside, lease and/or own property within a circle with a 7 mile radius around Republic’s facility at 28800 Clark Road, New Boston, Michigan (commonly known as the Carleton farms Landfill) as such radius is measured starting from Republic’s property line boundary and extending outward 7 miles, and who meet both of the following two criteria:

- i) they claim to have suffered damages, harm or injury of any kind at any time prior to the Hearing Order date as a result of the Emissions Allegations or any other conduct, action or activity by Republic; and
- ii) they reside, lease or own property within the 7 mile radius stated above.

5.5 “**Class Claims**” or “**Claims**” means any and all of Plaintiffs’ and each Class Member’s claims for damages or legal and equitable remedies of whatever kind or character, known or unknown, that are now recognized by any state or federal statutory or common law or that may be created or recognized in the future by any state or federal statute, regulation, judicial decision, or in any other manner, for actual damages, penalties of any kind, damage multipliers, punitive or exemplary damages, economic damages, disgorgement of profits, equitable, injunctive or declaratory relief, and any other loss or detriment of any kind that could arise from or relate to or concern

in any way, directly or indirectly, in whole or in part, the Action, the Emissions Allegations, Republic or Republic's Carleton Farms Landfill, including without limitation: any or all of the acts, omissions, facts, matters, transactions, occurrences or any oral or written statement or representations that were directly or indirectly alleged, asserted, described, set forth or referred to in the Action, or that could have been asserted in the Action that relate to or concern in any way Republic or the Emissions Allegations and future harm or damages arising out of past conduct which occurred prior to the Hearing Order date.

5.6 **"Class Counsel"** means Steven D. Liddle, and the law firm of Macuga, Liddle & Dubin, PC., 975 E. Jefferson Ave., Detroit, Michigan 48207.

5.7 **"Class Notice"** means the notice to be provided to Class Members pursuant to Section 7 of this Stipulation, in a form similar to Exhibit A attached to this Stipulation.

5.8 **"Class Period"** means the period prior to the date thirty (30) days after the Court enters the Hearing Order preliminarily approving this Stipulation.

5.9 **"Complaint"** means the Complaint filed in this Action.

5.10 **"Costs of Administration"** means all expenses incurred in connection with the administration of the settlement of the Action, including all fees and expenses of the Claims Administrator, if any.

5.11 **"Costs of Notice"** means all costs and expenses incurred in discharging the obligation to notify Class Members of the Settlement and this Stipulation, through mail or as required by the Court.

5.12 **"Court"** means the Circuit Court of Wayne County, Michigan.

5.13 “**Emissions**” or “**Emissions Allegations**” means: (i) the allegations set forth in the Complaint in the Action alleging that as a result of its operation and maintaining the Carleton Farms Landfill, Republic released noxious and offensive air contaminants, emissions, odors and/or substances causing damages, property damages, physical harm and personal injury to Plaintiffs and/or any of the Class Members, loss of or interference with the use and enjoyment of Plaintiffs’ and/or any of the Class Members’ personal and real property and any other damages or injury of any nature whatsoever which Plaintiffs or any Class Member could have raised in the Action relating to Republic; (ii) claims and unknown claims that arise out of or relate to in any manner, the acts, omissions, facts, matters, or occurrences directly or indirectly relating to Plaintiffs or any of the Class Members in connection with the Section 5.13 (i) Emissions Allegations above; and (iii) allegations that arise out of or relate to any and all claims for attorneys’ fees, costs or disbursements incurred by Class Counsel or any other counsel representing either Plaintiffs, or any of the Class Members, or by Plaintiffs or the Class Members, or any of them, in connection with or related in any manner to the Action, this Stipulation, the Settlement, the administration of such Settlement and/or the Released Claims, except to the extent otherwise specified in this Stipulation.

5.14 “**Escrow Fund**” means the interest bearing escrow account established by Class Counsel, acting as Escrow Agent, at the financial institution of Class Counsel’s selection which shall be, unless otherwise decided, designated the "Republic Services of Michigan Class Action Account," at National City Bank of Michigan/Illinois, maintained at its Buhl Building, Detroit, Michigan branch office. The foregoing account shall serve as a depository for the Settlement Funds, less such amounts as shall be withdrawn

there from only pursuant to this Stipulation or Order of the Court, together with such interest that has accrued thereon. No payments from the Settlement Fund may be made unless Class Counsel endorses the payment check(s), unless otherwise agreed. All interest accrued on the Settlement Fund shall be part of the Settlement Fund for the benefit of the Class.

5.15 “**Excluded Persons**” means that the following are excluded from the Class: (i) Republic, and any person, firm, trust, corporation or other entity affiliated with Republic; (ii) any person who previously signed a document that operates to release Republic from any and all liability; (iii) Class Members who timely Opt Out of this Stipulation; and (iv) the legal representatives, heirs, successors or assigns of any such Excluded Persons.

5.16 “**Fairness Hearing**” means the hearing(s) at or after which the Court will make a final decision whether to approve this Stipulation as fair, reasonable, and adequate, whether to approve Class’ Counsel’s application for attorneys’ fees and expenses, and whether to enter Final Judgment giving effect to this Stipulation.

5.17 “**Final Judgment**” means the stipulated order constituting a final judgment and permanent injunction pursuant to the Michigan Rules of Civil Procedure substantially in the form attached as Exhibit B to this Stipulation without any modification prejudicial to the rights of any of the Parties to this Stipulation.

5.18 “**Final Settlement Date**” means the date on which the Final Judgment becomes final for purposes of this Stipulation:

(a) if no appeal has been taken from the Final Judgment, Final Settlement Date means the date on which the time to appeal there from has expired without any appeal being taken there from; or

(b) if any appeal has been taken from the Final Judgment, Final Settlement Date means the date on which all appeals there from, including petitions for rehearing or re-argument, petitions for rehearing, rehearing en banc, and petitions for certiorari or any other form of review, have been finally disposed of in a manner that affirms the Final Judgment without any modification that would prejudice the rights of any of the Parties as any of them determine in their sole discretion.

5.19 “**Hearing Order**” means the order to be entered by the Court concerning the preliminary approval of this Stipulation, Class Notice and the Fairness Hearing, as contemplated in Section 7 of this Stipulation and in a form similar to Exhibit C attached to this Stipulation.

5.20 “**Homeowner Claim**” means the claim submitted by a class member as described in Section 14 utilizing a Claim Form similar in form to Exhibit F attached to this Stipulation.

5.21 “**Mail**” means the United States Postal Service.

5.22 “**Notice Date**” means thirty (30) days after the Court’s entry of the Hearing Order preliminarily approving this Stipulation and providing for Class Notice.

5.23 “**Opt-Out**” means a Class Member who submits a timely and valid notice of his/her/its request for exclusion from the Class in the form and within the time set forth in the Class Notice attached as Exhibit A.

5.24 “**Opt-Out Period**” means the period approved by the Court during which Class Members may exercise their right to Opt-Out of the Class and this Stipulation.

5.25 “**Party**” means either Plaintiffs or Republic.

5.26 “**Parties**” means Plaintiffs and Republic.

5.27 “**Person**” or “**Persons**” means natural persons and all entities and, without limiting the generality of the foregoing, includes, joint owners, associations, societies, fraternal organizations, companies, partnerships, joint ventures and/or corporations.

5.28 “**Plaintiffs**” means Edward Waldron II, Traci Brewer, Sheila Page and Barbara Riddle who filed this Action on behalf of themselves and the Class.

5.29 “**Released Claims**” means any and all Class Claims, and any and all causes of action, liabilities, damages, equitable claims, injuries, legal claims and administrative relief, interest, demands and rights whatsoever (including, but not limited to, any claims for damages, relief of any kind, interest, attorneys’ fees, expert fees, consulting fees, and any other costs, expenses whatsoever), whether based on tort, contract, common law, federal statute, the statutes of the State of Michigan, the code or regulations of the State of Michigan and/or the United States, or laws from any other source, whether fixed or contingent, whether accrued or unaccrued, known or unknown, that have been, could have been, or may be alleged in the Action, or could be alleged or asserted now or in the future in the Action or by Plaintiffs or any of them, the Class or any Class Member based on, arising out of, or otherwise connected in any fashion to Republic or the Emissions Allegations in any manner whatsoever, including, but not limited to, all claims for nuisance, negligence, violations of the Michigan Environmental

Protection Act, or any other state or federal environmental statutes, or any violation or breach of any Michigan law, statute, rule or regulation, and including, without limitation, declaratory relief, disgorgement of Republic's profits and/or revenue, restitution, or violation of any state or federal law, statute, rule, code or regulation, which are based on, arise out of, or are otherwise related to the Emissions Allegations. Released Claims expressly includes: "Unknown Claims." However, Released Claims does not include future conduct of Republic occurring after the Hearing Order date which creates future harm or damages as opposed to future harm or damages arising out of past conduct which occurred prior to the Hearing Order date which is included under Released Claims.

5.30 "**Settlement**" means the resolution of the Action by amicable agreement of the Parties on the terms and conditions provided in this Stipulation, subject to approval of the Court.

5.31 "**Settlement Funds**" means the amount paid by Republic pursuant to Section 6 below.

5.32 "**Settlement Relief**" means the relief being provided by Republic to the Class as described in this Stipulation at Section 6 below.

5.33 "**Improvement Measures**" means the actions undertaken or to be undertaken by Republic as set forth in the attached Exhibit D to implement and/or maintain the system designed to collect emissions commonly known as "landfill gas" which will help reduce and control odors.

5.34 "**The Stipulation**" or "**this Stipulation**" means this Stipulation of Settlement and Release Agreement.

5.35 “**Unknown Claims**” means any and all causes of action and claims based on, arising out of, or otherwise related to the Emission Allegations, the Class Claims, Republic or Republic’s Carleton Farms Landfill which Plaintiffs or any Class Member does not know or suspect to exist in his, her or its favor at the time of the Final Settlement Date which, if known by him, her, or it, might have affected his, her or its agreement to this Stipulation and release of Republic, or might have affected his, her, or its decision not to object to this Stipulation or opt-out of the Class to pursue an individual action. Plaintiffs and the Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but hereby stipulate and agree that Plaintiffs do and each Class Member shall be deemed to, upon the Final Settlement Date, fully, finally, and forever settle and release any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or equity, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs and all Class Members acknowledge that the foregoing waiver was separately bargained for and is a material inducement for Republic to agree to this Stipulation.

5.36 “**Republic**” means not only the company, Republic Services of Michigan I, L.L.C., a Michigan limited liability corporation, but also, each and all of Republic’s past or present owners, stockholders, officers, directors, employees, representatives, attorneys, advisors (and their spouses, heirs, members of their immediate families or

any trusts for which any of them are trustees, settlers or beneficiaries), subsidiaries, intermediate or ultimate parent companies, affiliated entities (including any entity which controls, is controlled by, or is under common control with any person or entity described in this Section 5.36), related companies, divisions, assigns, predecessors and successor entities (and other directors, officers, employees, representatives and attorneys of such parent companies, divisions, subsidiaries, assigns, affiliates, predecessor and successor entities), and all persons acting by, through, on behalf of, under or in concert with any of them.

5.37 “**Republic’s Counsel**” means the law firm of BERRY REYNOLDS & ROGOWSKI, PC.

5.38 All other capitalized terms used in this Stipulation shall have the meaning ascribed to them herein.

## **6. The Settlement**

6.1 Plaintiffs propose and recommend a Class be certified for Settlement purposes only and Republic agrees solely for Settlement purposes and the purposes of this Stipulation and its implementation that the Action proceed as a class action under Michigan Court Rule, 3.501, with respect to the relief provided for in this Section 6.

6.2 If the Court does not approve this Stipulation and grant a Final Judgment, however, Republic expressly retains: (i) all rights to object to the maintenance of the Action as a class action; (ii) all litigation rights available to litigants under the Michigan Court Rules; (iii) all defenses in the Action and to the Complaint and (iv) all rights to continue its appeal regarding class certification.

6.3 Republic will: i) pay the sum of eight hundred twenty five thousand (\$825,000.00) dollars in cash; and ii) provide the Improvement Measures as set forth in Exhibit D to settle all Released Claims in the Action (the "Settlement Funds"). Either one of: i) the payment of the Settlement Funds; or ii) the substantial performance of the Improvement Measures is and shall be sufficient, adequate, full and final consideration under this Stipulation.

6.4 Republic will pay the Settlement Funds (\$825,000.00) into the Escrow Account within two business days after the Final Settlement Date. Republic has no obligation under any circumstances to pay any of the Settlement Funds prior to the Final Settlement Date and Republic has no such obligation in the event Republic exercises its option to terminate this Settlement and Stipulation pursuant to Section 15 below. Interest on the Settlement Funds will accrue for the benefit of the Class, subject to Section 6.10.

6.5 The Settlement Funds shall be distributed and administered only as provided in this Stipulation. No person or entity participating in administration or distribution of the fund shall be liable for any acts or omissions in connection with that participation, except for gross negligence, willful misconduct, or breach of fiduciary duty (to the extent that any fiduciary duty exists).

6.6 Notwithstanding any provision of this Stipulation, Republic's Counsel, Republic and Republic's representatives, insurers and other agents shall not bear any responsibility for the administration or distribution of the Settlement Funds, except as expressly provided in this Stipulation, if at all.

6.7 In the event that this Stipulation is terminated pursuant to Section 15 below, then any of the Settlement Funds which have been paid by Republic, plus all interest actually earned on the Settlement Funds, less the amount of any taxes paid on the Settlement Funds, and any reasonable out-of-pocket Notice Expenses incurred by Plaintiffs or Class Counsel or the Administrator, shall be returned to Republic within 30 days of termination, as defined in Section 15 below. If such funds are not returned within such 30 day period, interest will accrue thereon at the rate for 30 day U.S. Government interest bearing instruments from the date of the deposit into the Escrow Fund until the date the money is returned to Republic.

6.8 Notice Expenses: The reasonable costs and expenses associated with the preparation and dissemination of Class Notice, soliciting Claim Forms, and processing Claim Forms (collectively "Notice Expenses") shall be paid from the Settlement Funds, and reasonable sums shall be advanced from the Escrow Account to pay for such costs.

6.9 The Notice Expenses described in Section 6.8 may be paid directly out of the Settlement Funds, or alternatively, may be advanced by Class Counsel, subject to reimbursement from the Settlement Funds. Neither Republic, nor its representatives, insurers, or other agents shall be obligated to advance any expenses (other than by providing the Settlement Funds).

6.10 The "Net Settlement Funds" shall consist of the Settlement Funds, plus interest earned pursuant to Section 6.4, less the following as approved by the Court:

- a. All Notice Expenses specified in Section 6.8 of this Stipulation;

b. Class Counsel's reasonable attorneys' fees, costs, and expenses, all as approved by the Court; and

c. Plaintiffs' compensation as the class representatives for their time and effort assumed by each of them as approved by the Court.

6.11 Republic has begun and will provide the Improvement Measures set forth in Exhibit D over a period of five (5) years ending on December 31, 2014. The cost of the Improvement Measures to Republic will be approximately Two Million Five Hundred Thousand (\$2,500,000.00) Dollars. Plaintiffs acknowledge that Republic may undertake some of the Improvement Measures prior to the Final Settlement Date. Plaintiffs further acknowledge that the Improvement Measures will be implemented over a five year period ending on December 31, 2014 and the character and amount of the Improvement Measures to be implemented each year shall be at Republic's sole discretion. Republic will, however, provide annually to Class Counsel by the twenty eight (28) day of February each year (beginning February 28, 2011) a one page written report summarizing the status of the Improvement Measures. Republic has no obligation under any circumstances to provide any of the Improvement Measures prior to the Final Settlement Date and Republic has no such obligation to provide any of the Improvement Measures at anytime, if either Republic or Plaintiffs exercises either of their options to terminate this Settlement and this Stipulation pursuant to Section 15 below. In the event this Settlement is completed, a Final Judgment is entered and this Stipulation is not terminated by either Party, and at a later date Plaintiffs or a Class Member alleges that Republic has not performed its Improvement Measures obligation under this Stipulation, then and only then, Plaintiffs or a Class Member may bring an

action to enforce Republic's Improvement Measures obligation as stated in Exhibit D without violating this Stipulation, if such action is solely and exclusively for the purpose of seeking an injunction to require Republic to perform its Improvement Measures obligation under Exhibit D to this Stipulation, otherwise all actions are permanently barred as provided for under Section 10 below. Such an action for the purpose of seeking an injunction to require Republic to perform its Improvement Measures obligation shall be Plaintiffs' and each Class Member's sole remedy regarding the Improvement Measures.

## **7. Notice to the Class, Fairness Hearing**

7.1 Promptly after execution of this Stipulation, Class Counsel and Republic's Counsel shall move the Court for preliminary approval of the Settlement and this Stipulation and, in support thereof, will lodge with the motion this Stipulation together with its Exhibits, the Class Notice substantially in the form of Exhibit A, the Final Judgment substantially in the form of Exhibit B and the Hearing Order substantially in the form of Exhibit C. The motion will seek, *inter alia*, the preliminary approval of the Settlement and this Stipulation, the approval for providing notice to each Class Member the Class Notice, not less than thirty (30) days before the date set by the Court for the Fairness Hearing, which shall include the general terms of this Stipulation, the Settlement and the date of the Fairness Hearing. Notice shall be given to the Class in the form attached hereto as Exhibit A as follows:

- i) Publication in The News Herald, a newspaper of general circulation in Southgate, Michigan; and
- ii) Written notice shall be provided by Class Counsel to each of the persons listed on Exhibit E, and such notice shall be sent by first class mail, postage prepaid to each such person at such address(es).

7.2 After the Class Notice is given, the Court will hold a Fairness Hearing and determine whether to approve this Stipulation and the Settlement as set forth in this Stipulation. At the Fairness Hearing, Class Counsel also will request that the Court approve its Fees and Costs.

7.3 If it chooses at its sole discretion, Class Counsel may retain one or more Administrators to help implement the terms of the Stipulation. The Administrator(s) may assist with various administrative tasks, including, without limitation, the mailing or arranging for the mailing of the Class Notice and publication of the Class Notice.

7.4 The Parties agree that they shall not publish a press release nor post a release on the internet concerning this Stipulation without the other Party's prior review and written approval.

7.5 Consistent with MCR 3.501, the Plaintiff Class shall pay the costs of providing Class Notice as set forth in Sections 6.8 and 6.9 above. All other costs relating to the Settlement Fund and the Costs of Administration shall also be borne by the Class and shall be paid from the Settlement Fund. Except as expressly provided this Stipulation, Republic shall not be liable for any fees, costs or expenses whatsoever of Plaintiffs, the Class or any Class Member, in connection with the Action or this Stipulation.

#### **8. Republic Assumes No Tax Liability**

No opinion concerning the tax consequences of the Settlement have been given or will be given by Republic, Republic's Counsel or Class Counsel to Plaintiffs or any Class Member nor are any representations in this regard made or any warranties made by virtue of this Stipulation. The Class Notice shall direct Class Members to consult

their own tax advisors regarding the federal, state, local or other tax consequences of the Settlement. Plaintiffs and each Class Member's tax obligations (including assessments, penalties, interest or payments that arise or may arise as a result of the Settlement, and the determination thereof) are the sole responsibility of each Plaintiff and each Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each Class Member.

#### **9. Release And Waiver**

9.1 Upon entry of the Final Judgment, Plaintiffs and each Class Member agree that they have, and by operation of the Final Judgment shall be deemed to have fully, finally, and forever compromised, released, resolved, waived, relinquished, discharged and settled all of the Released Claims against Republic, including Unknown Claims.

9.2 The release stated above in Section 9.1 shall be effective and binding on Plaintiffs, the Class and each Class Member upon entry of the Final Judgment without any further action of the Parties required.

#### **10. Permanent Injunction**

The Final Judgment shall, among other things, provide that Plaintiffs and each Class Member are forever barred and permanently enjoined from commencing, instituting, prosecuting, intervening in, participating in or receiving any benefit or other relief from any action or other adversary proceeding of any kind in any jurisdiction, in any court of law or equity, arbitration, lawsuit, or administrative forum, directly or representatively, against Republic, with respect to any, some or all of the Released Claims, Unknown Claims or relating in any fashion to the Action, the Complaint or the

facts and circumstances relating thereto, and bar and enjoin Plaintiffs and each Class Member from filing, commencing, or prosecuting in any jurisdiction, in any court of law or equity, arbitration or administrative forum any action or adversary proceeding of any kind on behalf of Plaintiffs or any Class Member with respect to any, some or all Released Claims or relating to in any fashion the Action, the Complaint or the facts and circumstances relating thereto. This Section 10 shall not apply to future conduct of Republic which creates future harm or damages as opposed to future harm or damages arising out of past conduct occurring prior to the Hearing Order date which is expressly included under Released Claims.

#### **11. Limitation On Use Of This Stipulation**

11.1 Under no circumstances, shall this Stipulation or drafts thereof, whether or not executed or consummated, nor any of its terms and provisions or Exhibits, nor any of the negotiations or proceedings connected with it, be:

- i. Construed as an admission of any sort whatsoever, either by Republic or Plaintiffs, relating to any issue, fact, claim or defense in this Action;
- ii. Offered or received into evidence in the Action or any other action or proceeding of any nature, including administrative or regulatory proceedings, for any purpose whatsoever; or
- iii. Referred to for any reason in any writing or document as that term is defined in MCR 2.302 other than to give effect to the provision of this Stipulation.

#### **12. Payment To Plaintiffs And Class Counsel's Attorneys' Fees and Costs**

12.1 As soon as practicable after execution of this Stipulation, Plaintiffs and Republic shall jointly move the Court for preliminary approval and entry of the Hearing Order substantially in the form attached hereto as Exhibit C and approval of the dissemination of the Class Notice in a form similar to the attached Exhibit A.

12.2 At the Fairness Hearing, the Parties will seek the Court's final approval of this Stipulation. If this Stipulation is approved by the Court, Plaintiffs shall move the Court for entry of the Final Judgment, in a form similar to the attached Exhibit B, which includes, among other things, that the Final Judgment shall vacate and set aside the Court's December 18, 2008 Order Granting plaintiffs' Motion for Class Certification and that Republic shall dismiss its pending appeal.

12.3 At the Fairness Hearing, Class Counsel will seek the Court's approval of an award of reasonable attorneys' fees, expenses and costs to be deducted by Class Counsel from the Settlement Funds. Republic will take no position as to Class Counsel's motion or application for an award of reasonable attorneys' fees, expenses and costs.

12.4 Plaintiffs will deduct from the Settlement Funds the following expenses reasonably incurred after the execution of this Stipulation: any publication, printing, or mailing costs of the Class Notice; fees and disbursements to the Administrator (if any), and any other third-party contractors engaged by Plaintiffs; and the amount of reasonable attorneys' fees and costs determined by the Court.

12.5 Republic shall not be liable or obligated to pay any attorneys' fees, expenses, costs, or disbursements, or incur any expense on behalf of, any person, either directly or indirectly, in connection with this Action or this Stipulation.

12.6 Plaintiffs collectively shall be entitled to deduct from the Settlement Funds the total amount of \$12,000.00 as compensation for the time and effort assumed by each of them in prosecuting the Action. This \$12,000.00 will be divided between Plaintiffs as set forth below.

### 13. **Settlement Fund Distribution**

13.1 The Settlement Fund shall be distributed as follows:

A. Attorneys' fees and costs: On the Final Settlement Date, Class Counsel shall receive as approved by the Court a reimbursement for all of their expenses and, for their efforts in the protection and the advancement of the interests of Plaintiffs and the Class;

B. Plaintiff class representative award: On the Final Settlement Date, Plaintiffs, Edward Waldron II, Traci Brewer, Shelia Page and Barbara Riddell, shall each receive for their diligence and participation in the advancement of the interests of the Class in this litigation the sum of three thousand (\$3,000.00) dollars;

C. All remaining monies from the Settlement Fund shall be divided pro rata among all Class Members who submit a Claim Form pursuant to Section 14.1 and 14.2 of this Stipulation and who, prior to the Hearing Order date: (i) own or lease a home; and (ii) filed a complaint with the MDEQ or Wayne County Department of the Environment or filed a data sheet with Class Counsel.

### 14. **Claim Administration**

14.1 To qualify for a Homeowner Claim, a Class Member must verify his, her or its claim and participate in the Settlement by (i) executing the Claim Form in a form similar to Exhibit F attached to this Stipulation; (ii) providing a copy of the claimant's 2009 property tax bill and (iii) providing a photocopy of a photo identification card issued by a government entity, such as a drivers' license. Only one Homeowner Claim is

allowed per each home within the Class, irrespective of the number of lessees, owners or residents within such home. Where more than one person or group make a claim in connection with the same home, the Homeowner Claim attributed to that home shall be divided under a pro-rata distribution.

14.2 To be eligible for a money from the Settlement Fund, a Class Member must send the fully completed Claim Form along with the necessary supporting documentation, to Macuga, Liddle & Dubin, P.C., 975 E. Jefferson Avenue, Detroit, Michigan 48207-3101 by first class mail, postmarked no later than 60 (sixty) days from the Final Settlement Date.

## **15. Termination of This Stipulation**

15.1 This Stipulation shall terminate at the sole option and discretion of either Plaintiffs (through Class Counsel) or Republic if: (i) the Court, or any appellate court(s), rejects, modifies or denies approval of any portion of this Stipulation, the Settlement or the Final Judgment that either Party in its sole judgment and discretion reasonably determines is material, including, without limitation, the terms of relief, the findings of the Court, the provisions relating to notice, the definition of the Class and/or the terms of the Released Claims, or (ii) the Court, or any appellate court(s), does not enter or completely affirm, or alters or expands, any portion of the Final Judgment that either Party in its sole judgment and discretion believes is material. A Party must exercise the option to withdraw from and terminate this Stipulation, as set forth in this Section 15, no later than 21 days after receiving notice of the event prompting the decision to terminate. Nothing herein shall be construed to permit Plaintiffs to terminate this

Stipulation solely because of the amount of the reasonable attorneys' fees and costs awarded by the Court or any appellate court(s).

15.2 Republic also may terminate this Stipulation:

15.2.1 If the total number of Class Members requesting to Opt-Out exceeds 5% of the Class Members or fifty (50) Class Members, whichever is less. In such event, Republic may elect to terminate this Stipulation by so notifying Class Counsel and the Court in writing not less than seven (7) days prior to the date set for the Fairness Hearing.

15.2.2 If, prior to the Final Settlement Date, any governmental authority or authorities should provide notice of, or undertake, action that would threaten materially to increase the cost of the Settlement or this Stipulation to Republic, or materially to decrease the economic relief afforded to the Class Members, then the Parties shall negotiate in good faith to modify this Stipulation so as to restore the economic relief to the Class Members or the cost to Republic, as the case may be, to what it would have been absent such governmental notice or action. If the Parties cannot agree to such modification, the Parties shall engage a mediator to assist in achieving such a resolution. Should no such negotiation modification or resolution be achieved within 30 days of such governmental notice or action, the adversely affected Party shall have the option, but not the obligation, to terminate this Stipulation.

15.3 If an option to withdraw from and terminate this Stipulation arises under this Section 15, neither Republic nor Plaintiffs are required for any reason or under any circumstance to exercise that option, and any exercise of such an option shall be made in good faith.

15.4 If this Stipulation is terminated pursuant to this Section 15 by either Party, then:

15.4.1 This Stipulation shall be null and void and shall have no force or effect, and no Party to this Stipulation shall be bound by any of its terms, except for the terms of Sections 2, 5, 11, 16 and this Section 15;

15.4.2 This Stipulation and all negotiations, statements and proceedings relating to it shall be without prejudice to the rights of Republic, Plaintiffs or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Stipulation;

15.4.3 Republic expressly reserves its appeal regarding class certification, all defenses, arguments, and motions as to all claims that have been or might later be asserted in the Action, including (without limitation) any defenses arising out of applicable statutes of limitation and the argument that the Action may not be litigated as a class action;

15.4.4 Plaintiffs expressly reserve all motions as to, and arguments in support of, all claims that have been or might later be asserted in the Action, including (without limitation) any argument concerning class certification.

## **16. General Matters and Reservations**

16.1 By execution of this Stipulation, Republic does not intend to release any claim it has against any insurer for any payment, fee, cost or expense whatsoever hereunder, including attorneys' fees and costs.

16.2 Class Counsel represents (i) that it is authorized to enter into this Stipulation on behalf of Plaintiffs, and (ii) that Class Counsel is seeking to protect the interests of the Class.

16.3 Republic's Counsel represents that it is authorized to enter into this Stipulation on behalf of Republic.

16.4 This Stipulation sets forth the entire agreement among the Parties with respect to its subject matter, and it may not be altered or modified in any manner except by written instrument executed by Class Counsel and Republic's Counsel. The Parties expressly acknowledge that no other agreements, arrangements, or understandings not expressed in this Stipulation exist among or between them.

16.5 Whenever this Stipulation requires or contemplates that one Party shall or may give notice to the other, notice shall be provided by facsimile and next-day (excluding Sunday) express delivery service as follows:

If to Republic, then to:

David H. Oermann  
Berry Reynolds & Rogowski, PC  
33493 W. Fourteen Mile Rd., Suite 100  
Farmington Hills, MI 48331-1587  
Facsimile: 248-851-4743

If to Plaintiffs, then to:

Steven D. Liddle  
Macuga, Liddle & Dubin, PC  
975 E. Jefferson Avenue  
Detroit, MI 48207-3101  
Facsimile: 313-392-0025

16.6 The Parties agree that this Stipulation is clear and unambiguous and was drafted jointly by both counsel for the Parties at arm's length, and that no parole or other

evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which this Stipulation was made or executed.

16.7 The Parties reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Stipulation.

16.8 The Parties, Republic's counsel and Class Counsel agree that they will not make public in any way the existence and the contents of this Stipulation or the proposed Final Judgment and all related negotiations until the date on which the Final Judgment is entered; provided however, that this Section 16 shall not prevent the disclosure, prior to the date on which the Final Judgment is entered, of information concerning the Settlement, this Stipulation or any related negotiations, (i) to regulators, financial analysts, and/or employees of Republic, where Republic deems such disclosure necessary to effectuate the terms and conditions of this Stipulation; (ii) to Class Members and the public generally as required by the Court to effectuate the Class Notice provisions of this Stipulation; and (iii) to any other person or entity (such as experts, courts, and/or Administrators) to which the Parties both agree in writing disclosure must be made in order to effectuate the terms and conditions of this Stipulation.

16.9 The Parties and their attorneys agree to cooperate fully with one another in seeking Court approval of this Stipulation and to use their best efforts to consummate the terms of this Stipulation. Neither Plaintiffs nor Republic shall seek to evade their good faith obligations to seek approval and implementation of this Stipulation by virtue

of any rulings, orders, governmental report, or other development, whether in the Action or in any other litigation, or otherwise that might hereinafter occur and might be deemed to alter the relative strength of the Plaintiffs or Republic with respect to any claim or defense or their relative bargaining power with respect to negotiating this Stipulation.

16.10 The waiver by one Party of any breach of this Stipulation by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

16.11 This Stipulation shall be construed in accordance with the laws of the State of Michigan.

16.12 If this Stipulation is terminated for any reason or if the Court declines to enter a Final Judgment or the Court enters a Final Judgment which is vacated, modified or reversed for any reason, upon appeal or otherwise, unless such modifications are agreed to by the Parties in writing, or if the Final Settlement Date does not otherwise occur, the Action shall thereupon revert forthwith to its status as of the date and time immediately prior to the execution of this Stipulation, and Plaintiffs and Republic shall proceed in all respects as if this Stipulation had not been executed and any related orders had not been entered. In that event, this Stipulation, the Settlement and any of the Parties' discussions with respect thereto shall be null and void and without further force and effect, and shall not be used or referred to for any purpose whatsoever in the Action, in any other litigation, or otherwise. The Parties agree that this Subsection 16.12 is intended in all respects to operate as though settlement negotiations, discovery during settlement negotiations and this Stipulation never existed and that all claims and defenses shall be available to the Parties to assert.

16.13 This Stipulation may be signed in counterparts transmitted by facsimile, each of which shall constitute a duplicate original.

16.14 Plaintiffs and Republic agree that they will not, on behalf of themselves, or in cooperation or participation with any other person, firm, entity, corporation or governmental agency, file, re-file or in any manner voluntarily participate in any way in the prosecution of any claim, charge, grievance, complaint or action of any sort against each other before any local, state or federal court, arbitrator, administrative agency, board or tribunal concerning any matter which was or could have been raised in connection with the Released Claims, the Action or the Complaint.

16.15 To further the interests of the Parties, each Party warrants that no assignment of any claim, cause of action, demand, or charge against the other Party hereto has been or will be made.

16.16 This Stipulation is binding on and inures to the benefit of Plaintiffs and Republic and their respective heirs, executors, administrators, successors, and assigns of the Parties hereto.

16.17 This Stipulation may be amended only by a written agreement executed by all of the Parties.

16.18 The Parties to this Stipulation acknowledge that they have been advised by their own independently selected counsel and other advisors in connection with this Stipulation and enter into this Stipulation solely on the basis of that advice and on the basis of their own independent investigation of the facts, laws and circumstances material to this Stipulation or any provision thereof, and not in any manner or to any degree based upon any statement or omission by the other Party or its agents,

representatives or attorneys, with regard to the subject matter, basis or effect of this Stipulation or otherwise.

16.19 The Parties warrant and represent that they have not, directly or indirectly, filed any charges or complaints, or initiated any action against each other with any local, state or federal agency or court.

THIS STIPULATION has been executed the 28 day of October, 2009.

Macuga, Liddle & Dubin, P.C.

Berry, Reynolds & Rogowski, PC

By: \_\_\_\_\_  
Steven D. Liddle (P45110)  
David R. Dubin (P52521)  
975 E. Jefferson Avenue  
Detroit, MI 48207-3101  
(313-392-0015

By: \_\_\_\_\_  
David H. Oermann (P36696)  
Ronald E. Reynolds (P40524)  
Joseph M. Rogowski (P51316)  
33493 W. Fourteen Mile Rd., #100  
Farmington Hills, MI 48331-1587  
248-851-3434