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THE CAVANAGH LAW FIRM
A Professional Association
1850 NORTH CENTRAL AVENUE
SUITE 1900
PHOENIX, ARIZONA 85004
(602) 322-4000

Jordan R. Plitt, Esq. SBN 028028
jplitt@cavanaghlaw.com
J. Logan Reasonover, Esq. SBN 036572
lreasonover@cavanaghlaw.com
Attorneys for Defendant Homesite Insurance Company

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Benjamin Chew

Plaintiff,

v.

Homesite Insurance Company,

Defendant.

Case No. 2:25-cv-00818-JTT

**DEFENDANT HOMESITE
INSURANCE COMPANY’S SUR-
REPLY TO MOTION TO APPOINT
UMPIRE**

Defendant Homesite Insurance Company (“Homesite”), files this Sur-Reply to Plaintiff’s Reply in Support of Motion to Appoint Umpire [doc. 25] in accordance with the Court’s Order [doc. 26] authorizing a Sur-Reply to Plaintiff’s Reply. After review of the new names submitted by Plaintiff, Homesite again asks that the Court reject the umpires proposed by Plaintiff for failing to satisfy the Policy requirements that an umpire be “competent and impartial.”

Plaintiff’s reply suggests that Homesite failed to challenge Plaintiff’s prior list of proposed umpires. Not so. Homesite noted that the prior list of proposed umpires had been rejected by its appraiser, and were rejected *because of concerns* that the proposed umpires did not satisfy the Policy requirements of competence and/or impartiality. [doc. 24 at 3:1-

1 5].

2 Remarkably, Plaintiff then goes on to argue that his proposed umpires are
3 appropriate *on the very same basis* that he rejects Homesite’s proposed umpires. *Compare*
4 doc. 25 at 2:1-5 (“The candidates listed by Homesite [...] are all routinely retained by
5 insurance carriers [...] as independent adjusters and/or appraisers. Because of this [...] none
6 are ‘impartial’ as required by the policy.”) *with* doc. 25 at 2:20-26 (“Ortenstone is routinely
7 appointed by both carriers and insureds to act as an appraiser [...]. David Brakefield has
8 worked as an appraiser for both insurance carriers and insureds [...]. Daniel Westfall has
9 worked as an independent adjuster for insurance carriers and has been appointed as an
10 appraiser by insurance carriers routinely.”) Plaintiff cannot have it both ways in arguing
11 that retention by insurance carriers to serve as an independent adjuster and appraiser
12 qualifies his candidates while serving as the basis to disqualify Homesite’s candidates.

13 As to Plaintiff’s newly proposed umpires, Homesite again raises concerns as to the
14 impartiality of these proposed umpires based on conversations with its selected appraiser.

15 The concerns as to impartiality of the proposed umpires were what led to Homesite’s
16 proposal of true neutrals as options to serve as umpire in this matter. Plaintiff states that Ms.
17 Gerstman, Mr. McGoldrick, and Judge Duncan “are not experienced in the factual
18 determinations at issue in this appraisal pertaining to construction or roofing and therefore
19 are not the best candidates to be appointed as Umpire in this matter” [doc. 25 at 2:10-13],
20 yet each has been appointed by Courts numerous times to serve as umpires in property
21 appraisal disputes. Plaintiff does not and cannot challenge the impartiality of Ms. Gerstman,
22 Mr. McGoldrick, and Judge Duncan, and each of them has sufficient experience serving as
23 umpires in property appraisal disputes to eliminate any concerns of their competency to
24 serve as the umpire in this matter.

25 Homesite respectfully requests the Court reject each of the candidates suggested by
26 Plaintiff in this matter. Because the parties are unable to agree on whether any “industry”

1 candidate proposed by the other is sufficiently impartial, Homesite again requests that the
 2 Court appoint one of the true neutrals, Ms. Gerstman, Mr. McGoldrick, or Judge Duncan,
 3 to serve as the umpire in this case. They all have experience with resolving construction
 4 and property appraisal dispute matters.

5 Alternatively, if the Court was persuaded it needed to pick one of the original
 6 proposed umpires as opposed to Homesite's proposed true neutrals, Homesite would
 7 propose Roy Hatch as a choice unlike the others. Mr. Hatch is the owner of Excel
 8 Construction Services, Inc. ("Excel"), a general contractor. Excel is an actively licensed
 9 "General Dual KB-1 Dual Building Contractor", License No. 142517, with the Arizona
 10 Registrar of Contractors and is licensed to "construct and repair all or any part of a
 11 residential structure or appurtenance."¹ See Exhibit 1. Excel has been licensed since

12 ¹ There are some exceptions that are not applicable to the issues involved here.
 13 Specifically, with respect to being a residential contractor, "[w]ork related to electrical,
 14 plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must
 15 be subcontracted to an appropriately licensed contractor." See license classification
 16 descriptions on the Arizona Registrar of Contractor's website:

17 KB-1 DUAL BUILDING CONTRACTOR

18 This classification allows the scope of work permitted by the B-1 General
 19 Commercial Contractor and the B- General Residential Contractor licenses.

20 B GENERAL RESIDENTIAL CONTRACTOR

21 This classification allows the licensee to construct and repair all or any part
 22 of a residential structure or appurtenance. Work related to electrical,
 23 plumbing, air conditioning systems, boilers, swimming pools, spas and
 24 water wells must be subcontracted to an appropriately licensed contractor.
 25 This classification does not include work authorized by the A-, B-1, or B-2
 26 scopes.

B-1 GENERAL COMMERCIAL CONTRACTOR

This classification allows the licensee to construct, alter, and repair in
 connection with any structure built, being built, or to be built for the
 support, shelter, and enclosure of persons, animals, or movable property of
 any kind. This scope includes the supervision of all or any part of the above
 and includes the management, or direct or indirect supervision of any work
 performed. Work related to electrical, plumbing, air conditioning systems,
 boilers, swimming pools, spas and water wells must be subcontracted to an
 appropriately licensed contractor. This classification does not include work

1 February 6, 1999; has 0 open cases, disciplined cases, and resolved/settled cases with the
2 Arizona Registrar of Contractors. While the other proposed umpires have worked for
3 insurance companies, Mr. Hatch has been licensed to *actually* make repairs or construct
4 roofs with his company in the State of Arizona—offering a unique perspective to the
5 Umpire role that perhaps the others are not able to.

6
7 RESPECTFULLY SUBMITTED this 12th day of January, 2026.

8 **THE CAVANAGH LAW FIRM, P.A.**

9
10 By: /s/J. Logan Reasonover

11 Jordan R. Plitt
12 J. Logan Reasonover
13 1850 North Central Avenue, Suite 1900
14 Phoenix, Arizona 85004
15 Attorneys for Defendant Homesite Insurance
16 Company

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authorized by the A-, B-, or B-3 scopes.

LAW OFFICES
THE CAVANAGH LAW FIRM, P.A.
1850 NORTH CENTRAL AVENUE, SUITE 1900
PHOENIX, ARIZONA 85004
(602) 322-4000

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2026, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and electronic copy to the following party:

Douglas F. Dieker
DIEKER COPPLE, PLLC
14256 North Northsight Blvd., Ste. 110
Scottsdale, AZ 85260
douglas@diekercoppplaw.com
Attorneys for Plaintiff

By: s/ J. Logan Reasonover

LAW OFFICES
THE CAVANAGH LAW FIRM, P.A.
1850 NORTH CENTRAL AVENUE, SUITE 1900
PHOENIX, ARIZONA 85004
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