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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 Case No.: CV-25-00818-JJT

12 Benjamin Chew,
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14 Plaintiff,
15 vs.
16 Homesite Insurance Company,
17
18 Defendant.

19 **PLAINTIFF’S REPLY IN SUPPORT**
20 **OF MOTION TO APPOINT UMPIRE**

21 Plaintiff Benjamin Chew (hereinafter “Plaintiff”), by and through counsel
22 undersigned, hereby submits his Reply in Support of Motion to Appoint Umpire filed on
23 December 12, 2025. (Doc. 23). Homesite Insurance Company’s (“Homesite”) response
24 does not dispute that an Umpire should be appointed in this matter. Homesite merely
25 objects to the candidates suggested by Plaintiff, ostensibly because those individuals are
26 exactly what the policy requires, “competent and impartial.”

As is easily discernible form the CV’s attached to Plaintiff’s motion, each of the
candidates have extensive construction, and even roofing, experience. As noted in
Plaintiff’s Motion to Appoint Umpire (Doc. 23), this matter arises out of a storm loss.
The primary dispute between the parties is whether Plaintiff’s roof needs to be replaced,
or whether a repair is sufficient or even feasible. Consequently, an Umpire with extensive
knowledge of construction, especially roofing, is essential to a fair outcome for both
parties.

1 The candidates listed by Homesite, as previously proposed by its selected
2 appraiser, are all routinely retained by insurance carriers, including Homesite, as
3 independent adjusters and/or appraisers. Because of the ongoing business opportunity
4 each of these individuals (Messrs. Anderson, Mireles, Salene, Hatch and Guilbault)
5 maintain with Homesite, none are “impartial” as required by the policy. Couch on
6 Insurance 3d 211§36. See also, *Gebers v. State Farm General Ins. Co.*, 38 Cal. App. 4th
7 1648, 45 Cal. Rptr. 2d 725 (1st Dist. 1995) (An appraiser selected by an insurer that also
8 retained the individual as an expert witness in two other cases was not “disinterested.”)
9 The additional three candidates (Ms. Gerstman, Mr. McGoldrick, and Judge Duncan),
10 while respected neutrals in the legal community with regard to conclusions of law, are
11 not experienced in the factual determinations at issue in this appraisal pertaining to
12 construction or roofing and therefore are not the best candidates to be appointed as
13 Umpire in this matter. Therefore, Plaintiff respectfully requests the Court reject each of
14 the candidates suggested by Defendant in this matter.

15 Homesites only objection to the candidates listed in Plaintiff’s motion is to argue
16 that they have already been rejected by its appraiser. That is not a sufficient basis to reject
17 an umpire candidate. A showing of incompetency or partiality has to be demonstrated by
18 Homesite to offer a valid objection to the candidates suggested by Plaintiff. Homesite
19 does not even attempt to argue that any of the candidates are partial or incompetent. Jim
20 Ortenstone is routinely appointed by both carriers and insureds to act as an appraiser and
21 has been appointed as an Umpire both by the courts and as agreed upon by the parties.
22 David Brakefield has worked as an appraiser for both insurance carriers and insureds and
23 has been appointed as an umpire by the courts. Daniel Westfall has worked as an
24 independent adjuster for insurance carriers and has been appointed as an appraiser by
25 insurance carriers routinely. Consequently, Plaintiff respectfully requests that either Mr.
26 Ortenstone, Mr. Brakefield or Mr. Westfall be named as Umpire in this matter.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 5, 2026, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmitted copies of the same and a Notice of Electronic Filing to the following CM/ECF registrants:

Jordan R. Plitt, Esq.
J. Logan Reasonover, Esq.
The Cavanagh Law Firm
1850 N. Central Avenue, Suite 1900
Phoenix, Arizona 85004
Attorneys for Defendant Homesite Insurance Company

/s/ Douglas F. Dieker

Exhibit 1

CURRICULUM VITAE

Thomas D. Metzger - Appraiser/Umpire/Loss Consultant

6929 N Hayden Rd, Suite C4-405, Scottsdale, AZ 85250

Tel.: 602.931.5239

EXPERIENCE

Mr. Metzger has approximately 29 years of experience in evaluation and appraisal of insured losses and loss consultation. As both, an appraiser and umpire as well as an Arizona licensed independent insurance adjuster, Mr. Metzger has dealt with all aspects of loss coverage under both residential and commercial policies. Mr. Metzger has appraised/estimated/reviewed upwards of 7,000 insured losses using Xactimate and has adjusted and/or consulted on numerous additional claims. Mr. Metzger also has served as an umpire in approximately 50 appraisal matters.

Mr. Metzger has been able to combine his 45 years of professional construction experience and 28 years of insurance policy knowledge to provide effective claims consulting, claims analysis, and valuation services for both property owners and insurance carriers.

CERTIFICATIONS/LICENSES

1. Licensed Insurance Adjuster, State of Arizona 2008 – Present
2. Licensed General Building & Concrete Contractor, State of California 1978 – Present

EMPLOYMENT

1978 – Present – California Licensed General Building & Concrete Contractor (inactive status)

1992 – 1994 – State Farm Insurance – Senior Structural Damage Appraiser

1996 – 2003 – Restoration Contractor in California specializing in Fire Damage Repair

2005 – Present – Independent Insurance Claim Examiner/Adjuster

2017 – 2018 – Alternative Dispute Resolution Team Specialist with TFPA & TWIA

EDUCATION

Ventura CA Community College – Associate of Arts

Carpenter Apprenticeship Program – 4 years – CA Union Local 150

Xactimate Experience – 1991 to Present

Exhibit 2

Craig Butler

Las Vegas, NV • 702-371-2752 • Craig.Butler@cox.net

PROFESSIONAL SUMMARY

Insurance Claims Adjuster, Appraiser, and Umpire with 25+ years across real estate, construction, operations, and financial management. Delivers high-quality, on-time, and on-budget outcomes for residential, commercial, and catastrophe property claims. Known for impartial, detail-driven damage assessments and client service. Closed 5,000+ claims and 300+ appraisals across multiple states, leveraging deep construction expertise and strong negotiation skills.

LICENSES & CERTIFICATIONS

- Licensed Adjuster: Nevada, Utah, Texas, Louisiana
- California Earthquake Claims Accreditation
- TWIA Certified
- Xactimate Proficient (#90154)
- P.L.A.N. Certified
- CATI Adjuster All-Lines Pre-Licensing (#91677)
- Property Specialist (#89457)

CORE COMPETENCIES

- Property Damage Assessment (Residential & Commercial)
- Appraisal & Umpire Services (Impartial, Evidence-Based)
- CAT & Daily Claims Handling
- Large Loss & Complex Claims Management
- Construction Budgeting & Project Management
- Expert Witness Testimony (Construction & Insurance)
- Policy Interpretation & Settlement Negotiation

PROFESSIONAL EXPERIENCE

Butler Adjusting — General Adjusting, Appraiser, Umpire | July 2014 – Present

- Investigate, evaluate, negotiate, and settle residential and commercial claims of all complexity levels.
- Closed 5,000+ claims across Southern California, Nevada, Utah, Texas, Louisiana, Florida, and Iowa.
- Completed 300+ appraisals and served as a neutral umpire in multiple dispute resolutions.
- Provide expert witness testimony in construction and insurance matters.
- Maintain proficiency in Xactimate and carrier-specific estimating guidelines.

Balance Real Estate & Development, LLC — Owner/Broker | Apr 2009 – Aug 2014

- Founded and managed a real estate brokerage and development firm specializing in project management, acquisitions, and asset development.

- Oversaw projects from concept through completion, including operational and financial analysis for completed assets.

Pius Reiger Construction, Inc. — Managing Partner | Sep 2013 – Aug 2014

- Directed budgets, proposals, schedules, and full project life cycles for a general contracting firm.

Benjamin-Butler Development Group — President/Broker | Feb 2007 – Apr 2009

- Led acquisitions, financing, entitlements, and construction for commercial, industrial, and residential developments across the western U.S.
- Managed both in-house developments and third-party owner/developer projects.

L&L Holdings / Westward Dough Operating Co. — Multiple Roles | Feb 1998 – Feb 2007

- Advanced from Director of Real Estate & Construction to COO and CFO for a Krispy Kreme Area Developer across five states.
- Managed acquisition, financing, entitlement, and construction of 18 stores; oversaw daily operations for 18 stores with 300+ employees; directed all financial functions.
- Facilitated acquisition of twelve additional stores across three states.

W&W Partnership — Director of Operations | Oct 1991 – Feb 1998

- Managed development, leasing, and property operations for an 80-acre retail center anchored by national tenants (Wal-Mart, Sam's Club, Petco, etc.).
- Served as acting Controller for Wells Cargo Construction, overseeing job costing and cash management.

EDUCATION

B.S., Accounting — University of Nevada, Las Vegas (UNLV)

NOTABLE CAREER ACHIEVEMENTS

- Managed claims and appraisals for catastrophic events, including earthquakes, hurricanes, and major storm systems.
- Delivered projects for national brands and high-profile developments with consistent budget and schedule adherence.
- Recognized for fairness and impartiality in appraisal/umpire roles, ensuring equitable resolutions for all parties.

Exhibit 3



CONTACT INFORMATION

PHOENIX OFFICE:
Phoenix, AZ 85018

Telephone: 480.999.5011
Mobile: 928.925.1373
jody.olfers@englemartin.com

JODY OLFERS

General Adjuster

SPECIALIZATIONS

Agriculture & Food (Farm Buildings, Steel Farm Structures), **Appraisal & Umpire Services, Builder's Risk/Construction All Risk** (Builder's Risk Habitational, Hospitality, Hotels, Nursing Homes/Assisted Living Facilities, Offices, Real Estate, Retail/Malls, Schools and Universities), **Healthcare** (Assisted Living, Skilled Care Facilities), **Hospitality** (Motels, Nightclubs, & Bars, Restaurants & Cafes)

EXPERIENCE

- 2022 - Present Engle Martin - *General Adjuster*
- 2021 - 2022 Tela Construction - *Estimator*
- 2020 - 2021 Progressive Home Insurance - *Large Loss Field Catastrophe Response Team*
- 2017 - 2020 Farmers Insurance Company - *Commercial Catastrophe Response Team*
- 2015 -2017 Farmers Insurance Company - *General Adjuster*
- 2012 - 2015 Farmers Insurance Company - *Catastrophe Response Team*
- 2007 - 2012 Farmers Insurance Company - *Property Field Claims Representative*

NOTABLE ASSIGNMENTS

- Government Building - *Apache Tribe - Public Works* (\$800,000)
- Commercial Real Estate (\$750,000)
- Charter School: *Wind/Water Damage* (\$650,000)
- Golf Course/Club House/Outdoor Property: *CAT: Tornado/Hail* (\$525,000)
- Residential Home: *Fire* (\$500,000)
- Condominium Association: *Water* (\$350,000)
- Restaurant: *Fire* (\$400,000)
- Residential Home: *Water* (\$275,000)
- Resort and Conference Center (\$200,000)
- Rehabilitation Facility (\$160,000)

EDUCATION

Northern Arizona University - Bachelor of Science in Biology