

# **Exhibit A to Settlement Agreement**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

**John Demscheck, individually and  
on behalf of all others similarly situated,** )

**Plaintiffs,** )

**v.** )

**Ginn Development Company, LLC,** )

**Defendant.** )

**Case No. 3:09-CV-335-HLA-TEM**

**[PROPOSED] FINAL ORDER AND JUDGMENT**

On           , 2013, the Court entered a Preliminary Approval Order that preliminarily approved the proposed Settlement Agreement (the “Agreement”) in this Lawsuit and specified the manner in which the Parties were to provide Class Notice to the Settlement Class Members.<sup>1</sup> Following the dissemination of Class Notice, Settlement Class Members were given an opportunity to request exclusion from the settlement class and/or object to the Agreement (including Plaintiff’s counsel’s request for fees and expenses). A Fairness Hearing was held on           , at which time all interested persons were given a full opportunity to state any objections to the Agreement. The Fairness Hearing was held more than ninety (90) days after the Parties provided notice of the proposed Agreement to federal and state-level attorneys general as required by 28 U.S.C. § 1715(b), thus complying with 28 U.S.C. § 1715(d).

---

<sup>1</sup> All capitalized terms used in this Order have the meaning as defined in the Agreement, which is attached hereto and incorporated herein by reference.

Having read and fully considered the terms of the Agreement and all submissions made in connection with it, and all other matters of record with the Court, and for good cause shown, the Court finds that the Agreement should be finally approved and the Lawsuit dismissed with prejudice as to Plaintiff and all Settlement Class Members who have not excluded themselves from the Settlement Class, and without prejudice as to all persons who timely and validly excluded themselves from the Settlement Class. Accordingly, IT IS HEREBY ORDERED that:

1. This Court has jurisdiction over the Parties and this action. The prior provisional certification of the Settlement Class is hereby confirmed and made final for purposes of the Agreement as approved by this Order. The Settlement Class is defined as:

All entities and natural persons that took title to real estate (e.g., undeveloped land, a condominium, a townhome, etc.) in a development operated or developed by Ginn or any of Ginn's past or present subsidiaries, divisions, related or sister or affiliated entities (collectively, the "Ginn Developers") directly from the Ginn Developers in connection with a purchase contract that was fully executed between April 13, 2006 and April 13, 2009. (As used herein, each such parcel of real estate shall be referred to as "Ginn Property.")

By way of example, if the purchase contract was signed within the class period, that purchaser would be a member of the Settlement Class even if the sale was closed outside the class period. By way of further example, if the contract was signed outside the class period and the sale was closed within the class period, that purchaser would not be a member of the Settlement Class.

The Settlement Class excludes: (a) all entities and natural persons who did not take title directly from the Ginn Developers, including without limitation resale purchases of Ginn Property; (b) all federal court judges or magistrate judges who have presided over this case

and their spouses and anyone within three degrees of consanguinity from those judges and their spouses; (c) the Ginn Developers' past or present employees, officers, directors, agents, attorneys, and representatives and their family members, as well as any entities created or controlled by any of the aforementioned persons; (d) all entities and natural persons who timely and validly elected to exclude themselves from the Settlement Class; (e) all entities and natural persons who have previously executed and delivered to one or more of the Ginn Developers releases of any claims they may have with respect to their purchase of Ginn Property; and (f) all entities and natural persons who have asserted claims against one or more of the Ginn Developers related to their purchase of Ginn Property and whose claims have been (i) dismissed with prejudice and/or (ii) dismissed without prejudice but who have not re-asserted those claims against one or more of the Ginn Developers before the deadline for doing so under applicable law.

Pursuant to the Court's class certification Order, Court-approved notice (and the attendant claim form) was disseminated by First Class U.S. Mail to each Settlement Class Member for whom the Parties and the claims administrator could reasonably obtain an address and to each Settlement Class Member by e-mail for whom the Parties and the claims administrator could reasonable obtain an e-mail address.

2. The Court hereby finds and concludes that personal Class Notice has been given to all Settlement Class Members known and reasonably identifiable in satisfaction of the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process (and that the attendant claim form also satisfies such requirements).

3. For the reasons set forth in the Court's Preliminary Approval Order, the Court hereby approves the terms of the Agreement as fair, reasonable, and adequate as it applies to the Settlement Class, and directs consummation of all its terms and provisions.

4. Plaintiff's counsel's Fee and Expense Application will be addressed in a separate Order.

5. The Agreement shall be binding on Ginn and Plaintiff, as well as all members of the Settlement Class who have not been excluded pursuant to the Agreement.

6. The Court dismisses on the merits and with prejudice the above captioned action entitled *John Demsheck, individually and on behalf of all others similarly situated v. Ginn Development Company, LLC; Lubert-Adler Partners, LP*, in the United States District Court for the Middle District of Florida, Jacksonville Division, Case Number 3:09-CV-335-HLA-TEM and all claims that have been or could have been asserted therein.

7. Upon the Effective Date of the Agreement, Plaintiff and each Settlement Class Member, on behalf of themselves and their respective agents, assigns, attorneys, accountants, principals, members, employees, officers, directors, independent contractors, investors, successors, predecessors, insurers, representatives, parents, subsidiaries, divisions, sister and affiliated entities (collectively hereafter the "Settlement Class Releasers"), shall be deemed to have, and by operation of this Final Order and Judgment shall have, released, waived and discharged Defendants and each of their respective past or present agents, heirs, executors, administrators, assigns, associates, attorneys, principals, accountants, employees, officers, directors, independent contractors, investors, creditors, successors, predecessors, insurers, representatives, parents, subsidiaries, divisions, related or sister or affiliated entities, partners,

joint ventures, members, shareholders and owners, and any others who may have acted or been claimed to have acted in concert with them, or who may be liable or who might be claimed to be liable with them (collectively, the “Released Parties”) from any and all charges, complaints, claims, counterclaims, third-party claims, defenses, liabilities, obligations, promises, agreements, controversies, demands, damages, actions, causes of action or suits of any kind or nature arising out of or related to the Litigation (including without limitation any and all claims, complaints, charges, liabilities, obligations, damages, actions, causes of action or suits of any kind or nature arising from or related to any potential claim of abusive litigation or misconduct arising out of the Litigation).

8. Due and adequate notice of the proceedings having been given to the class of their right to object to the settlement, the plan of allocation, and Plaintiff’s counsel’s right to apply for attorneys’ fees and reimbursement of expenses associated with the action, and a full opportunity having been offered to the class to participate in the Fairness hearing, it is hereby determined that all Settlement Class Members are bound by this Final Order and Judgment. Specifically, Settlement Class Members who did not duly request exclusion from the Settlement Class in the time and manner provided in the Class Notice are hereby barred, permanently enjoined, and restrained from commencing or prosecuting any action, suit, proceeding, claim, or cause of action in any jurisdiction or court against Defendants or any of the other Released Parties, based upon, relating to, or arising out of, any of the matters which are discharged and released pursuant to Paragraph 7 hereof. Identification information about Settlement Class Members who effectively excluded themselves from the Settlement Class is attached as **Exhibit A** to this Order.

9. If (a) the Effective Date of the Agreement does not occur for any reason whatsoever, or (b) the Agreement becomes null and void pursuant to the terms of the Agreement, this Final Order and Judgment shall be deemed vacated and shall have no force or effect whatsoever.

10. Without affecting the finality of the Final Order and Judgment in any way, the Court reserves continuing and exclusive jurisdiction over the Parties, including all of the Settlement Class Members, and the execution, consummation, administration, and enforcement of the terms of the Agreement.

11. The Clerk is directed to enter this Final Order and Judgment forthwith.

SO ORDERED this \_\_\_ day of \_\_\_\_\_, 2013.

---

HENRY LEE ADAMS, JR.  
United States District Judge