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STANDARD PACIFIC CORP. dba STANDARD
8 PACIFIC HOMES

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 JAMES F. DODARO, as an individual
and on behalf of all other similarly
12 situated,

13 Plaintiff,

14 vs.

15 STANDARD PACIFIC CORP., d/b/a
"STANDARD PACIFIC HOMES;" and
16 DOES 1 through 10, inclusive,

17 Defendants.

) Case No. EDCV09-01666 VAP (OPx)

) JUDGE: Hon. Virginia A. Phillips
DEPT: 2

) **NOTICE OF MOTION AND
MOTION TO STRIKE PORTIONS
OF SECOND AMENDED
COMPLAINT; MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT THEREOF**

) DATE: January 30, 2012
TIME: 2:00 p.m.
CTRM: 2

) Original Complaint Filed: 09/03/09
FAC Filed: 12/21/09
SAC Filed: 12/02/11

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10710 HENSING COURT SUITE 100

1 TO PLAINTIFF AND HIS ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE that Defendant Standard Pacific Corp. dba Standard
3 Pacific Homes ("SPC") hereby moves this Court, pursuant to Rules 12(f) and
4 23(d)(1)(D) of the Federal Rules of Civil Procedure for an order striking portions of
5 Plaintiff James F. Dodaro's ("Plaintiff") Second Amended Complaint ("SAC"). The
6 Motion will come before the Court on January 30, 2012 at 2:00 p.m., or as soon
7 thereafter as the parties may be heard in Courtroom 2 of this Court located at 3470
8 12th Street, Riverside, California 92501.

9 A. Plaintiff cannot maintain a viable class action. Accordingly, SPC
10 requests that the following class allegations be stricken from the SAC: Paragraphs
11 76-85, Prayer for Relief Paragraphs A and B, and any other references regarding a
12 class.

13 B. In the alternative, SPC requests that the following nationwide class
14 allegations be stricken from the SAC: Paragraph 76, Prayer for Relief Paragraph A,
15 and any other references regarding a nationwide class.

16 C. Because Plaintiff lacks standing to pursue any claims based on his
17 purported diminished-value and diminished-desirability injury, SPC requests that the
18 following paragraphs be stricken from the SAC: Paragraphs 3, 4, 45-52, 65, 75,
19 80(f)-(h), 99, 107, 115, 123, and 127-134.

20 D. The allegations regarding the compensation of SPC's CEO are
21 immaterial and impertinent. Accordingly, Paragraph 54 should be stricken from the
22 SAC.

23 E. SPC requests that Plaintiff's request for injunctive relief at Prayer for
24 Relief Paragraph F.3 be stricken in its entirety.

25 F. SPC requests that Plaintiff's request for rescission at Prayer for Relief
26 Paragraph D.2 be stricken in its entirety and that any other references to rescission be
27 stricken from the SAC.

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1 This Motion is made following the conference of counsel, pursuant to Central
2 District of California Local Rule 7-3, December 13, 2011.

3 This Motion is based on this Notice, the accompanying Memorandum of
4 Points and Authorities in support thereof, such matters which the Court may consider
5 by way of judicial notice, the pleadings and records on file herein, and such further
6 written and oral evidence and argument as may be presented at the time of the
7 hearing.

8 Dated: December 22, 2011

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CORPORATION

By: /s/ Robert L. Green, Esq.

Robert L. Green
Attorneys for Defendant
STANDARD PACIFIC CORP. dba
STANDARD PACIFIC HOMES

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Standard Pacific Corp. dba Standard Pacific Homes (“SPC”) brings this Motion to Strike simultaneously with its Motion to Dismiss Plaintiff’s Second Amended Complaint (“SAC”). If the Court grants SPC’s Motion to Dismiss, this Motion to Strike will be moot. If the Court does not dismiss the entire SAC, then SPC requests that the Court strike Plaintiff’s class allegations (or alternatively, his nationwide class allegations), superfluous and immaterial allegations about the salary of SPC’s CEO, and improper prayers for forms of relief that cannot be recovered as a matter of law.

II. FACTUAL ALLEGATIONS

Plaintiff alleges that on or about July 24, 2005, he bought a new home from SPC. (SAC ¶ 56). He further alleges that he made a down payment on the house of about 60% and financed the remainder of the purchase price through Family Lending Services (now known as Standard Pacific Mortgage).¹ *Id.* Plaintiff alleges that since the time that he purchased the property, there have been a number of rentals, short sales, and foreclosures in his neighborhood. *Id.* at 65. He now seeks to maintain a class action on behalf of himself and a national class including “[a]ll persons who purchased a new home from any Standard Pacific entity from January 1, 2004, through December 31, 2006, and borrowed or financed less than 90% of the purchase price of the house.” *Id.* at ¶ 76.

Further, Plaintiff alleges that SPC “directed its subsidiaries to implement a scheme to increase the number of houses sold and to increase the amount of profit per sale.” *Id.* at ¶ 22. To accomplish this purported “scheme,” SPC allegedly

¹ In the original Complaint and the FAC, Plaintiff had named Standard Pacific Mortgage as a Defendant. In the SAC, Plaintiff does not include Standard Pacific Mortgage as a Defendant, and does not assert any claims against it.

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1 “financed unqualified buyers who posed an abnormally high risk of foreclosure” and
2 sold to “investors.” *Id.* at ¶ 23. According to Plaintiff, SPC’s alleged scheme was
3 also dependent on “the existence of loan securitization . . . and its mortgage company
4 subsidiary Standard Pacific Mortgage[‘s]” inability to absorb the foreclosures of
5 unqualified buyers. *Id.* at ¶ 28. However, no defendant in the SAC is a lending
6 entity. As such, SPC’s alleged lending practices cannot possibly support Plaintiff’s
7 recovery here.

8 **III. LEGAL STANDARD**

9 Federal Rule of Civil Procedure 12(f) provides that “[t]he court may strike
10 from a pleading an insufficient defense or any redundant, immaterial, impertinent, or
11 scandalous matter.” Motions to strike are “well taken” where they “may have the
12 effect of making the trial of the action less complicated, or have the effect of
13 otherwise streamlining the ultimate resolution of the action.” *State of California v.*
14 *United States*, 512 F. Supp. 36, 28 (N.D. Cal. 1981).

15 **IV. ARGUMENT**

16 As a preliminary matter, one of the seven other Homebuilder Class Action
17 cases transferred to this Court is *Stephens, et al. v. Lennar Corp., et al.*, Case No.
18 ED09-CV1668-VAP(DTBx), against Defendants Lennar Corporation and Lennar
19 Homes of California, Inc. (collectively “Lennar”). Lennar is filing a Motion to
20 Strike Portions of Plaintiffs’ Second Amended Complaint, raising the same
21 challenges as SPC does so here. Therefore in the interest of brevity, SPC hereby
22 incorporates by reference and adopts Lennar’s argument in its Motion to Strike in its
23 entirety as if fully set forth herein. SPC asserts such arguments as to the specific
24 portion of the SAC here as follows:

25 A. Plaintiff cannot maintain a viable class action. Accordingly, SPC
26 requests that the following class allegations be stricken from the SAC: Paragraphs
27 76-85, Prayer for Relief Paragraphs A and B, and any other references regarding a
28 class.

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1 B. In the alternative, SPC requests that the following nationwide class
2 allegations be stricken from the SAC: Paragraph 76, Prayer for Relief Paragraph A,
3 and any other references regarding a nationwide class.

4 C. Because Plaintiff lacks standing to pursue any claims based on his
5 purported diminished-value and diminished-desirability injury, SPC requests that the
6 following paragraphs be stricken from the SAC: Paragraphs 3, 4, 45-52, 65, 75,
7 80(f)-(h), 99, 107, 115, 123, and 127-134.

8 D. The allegations regarding the compensation of SPC's CEO are
9 immaterial and impertinent. Accordingly, Paragraph 54 should be stricken from the
10 SAC.

11 E. SPC requests that Plaintiff's request for injunctive relief at Prayer for
12 Relief Paragraph F.3 be stricken in its entirety.

13 F. SPC requests that Plaintiff's request for rescission at Prayer for Relief
14 Paragraph D.2 be stricken in its entirety and that any other references to rescission be
15 stricken from the SAC.

16 **V. CONCLUSION**

17 For the foregoing reasons, SPC's Motion to Strike should be granted.

18 Dated: December 22, 2011

GREEN & HALL, A PROFESSIONAL
CORPORATION

By: /s/ Robert L. Green, Esq.

Robert L. Green
Attorneys for Defendant
STANDARD PACIFIC CORP. dba
STANDARD PACIFIC HOMES

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorney of record, this 22nd day of December, 2011:

<p>Richard D. McCune, Esq. David C. Wright, Esq. Jae K. Kim, Esq. McCune Wright, LLP 2068 Orange Tree Lane, Suite 216 Redlands, CA 92374</p> <p><i>Counsel for Plaintiffs</i></p>	<p>Andrea Bierstein, Esq. Mitchell M. Breit, Esq. Jayne Conroy, Esq. Hanly Conroy Bierstein Fisher & Hayes, LLP 112 Madison Avenue New York, New York 10016-7416</p> <p><i>Counsel for Plaintiffs</i></p>
<p>Derek Y. Brandt, Esq. Simmons Browder Gianaris Angelides & Barnerd, LLC 707 Berkshire Blvd. East Alton, IL 62024</p> <p><i>Counsel for Plaintiffs</i></p>	

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 22nd day of December, 2011, at Santa Ana, California.

/s/ Robert L. Green, Esq. _____
Robert L. Green, Esq.