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7 *Lead Counsel for Plaintiffs*

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO

10 DAN KAPLAN, On Behalf of Himself and
All Others Similarly Situated,

11 Plaintiffs,

12 v.

13 FIDELITY NATIONAL HOME
14 WARRANTY COMPANY, a California
Corporation, AND DOES 1-20,

15 Defendants.

CASE NO. 37-2008-00087962-CU-BT-CTL

**NOTICE OF PENDENCY OF CLASS
ACTION**

16 JAMES BAKER, On Behalf of Himself and
17 All Others Similarly Situated,

18 Plaintiffs,

19 v.

20 FIDELITY NATIONAL HOME
21 WARRANTY COMPANY, a California
Corporation, AND DOES 1-20,

22 Defendants.

CASE NO. 37-2008-00088433-CU-BT-CTL

NOTICE

1 This notice is being sent to all persons and entities residing in the United States who
2 made a warranty claim under a home warranty plan issued by Fidelity National Home
3 Warranty Company (“FNHW”) between July 18, 2002 and the present.

4 **This notice may affect your legal rights.**
5 **Please read it carefully.**

6
7 Plaintiffs Dan Kaplan and James Baker filed this lawsuit against FNHW challenging its
8 business practices regarding its independent third-party contractors. Mr. Kaplan and Mr.
9 Baker, and the people whom they seek to represent, are the “Plaintiffs.” **The purpose of this**
10 **notice is to advise you that you have been identified as a possible class member and to**
11 **advise you of the potential effect this case will have on your rights.**

12 **SUMMARY OF THE CASE**

13 Plaintiffs allege that FNHW (1) caused denials of legitimate warranty claims; (2)
14 performed temporary fixes rather than proper replacements of covered systems; (3)
15 overcharged customers for allegedly non-covered charges; and (4) refused to work on
16 expensive claims.

17 FNHW denies Plaintiffs’ allegations and/or that they have committed any violations of
18 law or engaged in any wrongful acts or business practices.

19 The Court has not yet determined whether the Plaintiffs’ or FNHW’s contentions are
20 correct.

21 **CLASS ACTION RULING**

22 On November 1, 2010, the Court ordered that this lawsuit may be maintained as a class
23 action on behalf of the following class:

24 All persons and entities residing in the United States who, during the period
25 from approximately July 18, 2002 through the present (the “Class Period”),
26 made a claim under a home-warranty plan obtained from Defendant Fidelity
27 National Home Warranty Company. Excluded from the class is the defendant
28 and its parents, subsidiaries, affiliates, all governmental entities, and co-
conspirators.

1 Counsel for the class are Francis A. Bottini, Jr., Edward M. Chapin and Douglas J. Brown,
2 Chapin, Fitzgerald Sullivan & Bottini LLP, 550 West “C” Street, Suite 2000, San Diego, CA
3 92101; www.cfsblaw.com

4 **RIGHTS AND OBLIGATIONS OF CLASS MEMBERS**

5 If you fall within the definition of the Plaintiff class, you will automatically become a
6 class member in this lawsuit. **If you wish to be a member of the Plaintiff class in this case,**
7 **you do not need to do anything further at this time, and you should NOT file an exclusion**
8 **request.** As a class member:

- 9 • You will be represented by the named class representatives and the attorneys
10 representing the class. You will not be charged for this representation. If the
11 Plaintiffs win, Plaintiffs’ counsel will ask the Court that they be compensated based
12 on a reasonable percentage of the total benefits to the class. However, you may
13 enter an appearance through you own attorney by mailing a Notice of Appearance
14 to the Clerk of the Court, San Diego Superior Court, 330 W. Broadway, San Diego,
15 CA 92101. You may also move the Court for permission to appear as named class
16 co-representative.
- 17 • You will receive notice of any ruling affecting your membership in the class and
18 notice of any proposed settlement or dismissal of class claims or any judgment
19 rendered.
- 20 • You will be bound by any judgment or other final disposition of the class lawsuit,
21 whether that disposition is favorable or not.
- 22 • You will participate, upon meeting any prerequisites set by the Court, in a
23 distribution of any money recovered in the litigation. You should retain all records
24 and documents pertaining to the subject matter of this case if you still have them.
- 25 • You should notify plaintiffs’ counsel, by e-mail to fbottini@cfsblaw.com, of any
26 change in your address or e-mail address.
- 27 • You will be deemed, as discussed below, to have consented to FNHW disclosing
28 certain personally identifiable information about you from its records to counsel for

1 the class so they may represent you and, if a money judgment is rendered in favor
2 of the class, determine the amount of any refund or monetary recovery to which
3 you may be entitled.

4 **ELECTION NOT TO PARTICIPATE IN CLASS ACTION (“OPTING OUT”)**

5 If you want to be excluded from the class, you must send a written notice of your intent
6 to exclude yourself from the class, with the information requested below, by mail postmarked
7 no later than September 21, 2011, to: Francis A. Bottini, Chapin Fitzgerald Sullivan & Bottini
8 LLP, 550 West C Street, Suite 2000, San Diego, California 92101.

9 Please include your full name, your current mailing address, the address of the
10 residence that was covered by your warranty plan, your phone number, e-mail address, and a
11 statement that you wish to be excluded from the *Kaplan v. Fidelity National Home Warranty*
12 *Company* lawsuit. The choice to exclude yourself from the class has certain consequences,
13 and you may wish to consult an attorney regarding this choice. If you elect to be excluded: (1)
14 you will not be bound by any judgment in this case and will retain any claims you may have
15 against FNHW, subject to applicable statutes of limitations, and (2) you will not share in any
16 monetary or other recovery that might be paid to Plaintiffs if the class representatives are
17 successful in trial or from any settlement.

18 **ADDITIONAL INFORMATION**

19 If you have any questions concerning the matters in this notice, or if you have
20 corrections or changes to your name or address (so future notices about this case will reach
21 you), please contact Plaintiffs’ counsel at bakerclassaction@cfsblaw.com or the following
22 address: Chapin Fitzgerald Sullivan & Bottini LLP, 550 West “C” Street, Suite 2000, San
23 Diego, CA 92101; (800) 675-0152. **DO NOT CALL OR WRITE THE COURT.**

24 The pleadings and all other records of this litigation may be examined and copied any
25 time during the regular office hours in the office of the Clerk of the Clerk indicated above.

26 Dated: June 13, 2011