

# **EXHIBIT J**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JASON TRABAKOOLAS and SHEILA  
STETSON, individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

WATTS WATER TECHNOLOGIES, INC.,  
WATTS REGULATOR CO., WATTS  
ANDERSON-BARROWS METAL CORP.,  
WATTS PLUMBING TECHNOLOGIES  
(TAIZHOU) CO., LTD., SAVARD PLUMBING  
COMPANY, WOLVERINE BRASS, INC., AND  
JOHN DOES 1-100,

Defendants.

Case No. 3:12-CV-01172 WHO (EDL)

**DECLARATION OF LAYN R. PHILLIPS  
REGARDING APPROVAL OF  
SETTLEMENT**

1 I, Layn R. Phillips, declare as follows:

2 1. I submit this Declaration in my capacity as the mediator in connection with the  
3 proposed settlement of the claims asserted in this action. For the reasons discussed herein, I firmly  
4 believe, based on my extensive discussions with the parties and my detailed review of the  
5 information, evidence, and arguments made available to me both before and during the mediation,  
6 that the proposed settlement was negotiated in good faith, and represents an excellent recovery for  
7 the class and is otherwise fair, reasonable and adequate given the litigation risks involved for both  
8 sides.

9 **Background Information**

10 2. I am a partner with the law firm of Irell & Manella LLP. I am a member of the bars  
11 of Oklahoma, Texas, California and the District of Columbia, as well as the United States Courts of  
12 Appeals for the Ninth and Tenth Circuits. I earned my Bachelor of Science in Economics, as well as  
13 my J.D., from the University of Tulsa. I completed two years of L.L.M. work at Georgetown  
14 University Law Center in the area of economic regulation of industry. Upon completion of my  
15 formal education, I served as an Assistant United States Attorney in the Central District of California  
16 from 1980 to 1983. As a United States Attorney, I tried many cases and oversaw the trial of  
17 numerous other cases. While serving as a United States Attorney, I was nominated by President  
18 Reagan to serve as a United States District Court Judge for the Western District of Oklahoma in the  
19 Oklahoma City Division. During my tenure as a federal judge, I presided over trials in all three  
20 districts of the state (Northern, Western and Eastern) and sat by designation on the United States  
21 Court of Appeals for the Tenth Circuit. I also presided over cases in Texas, New Mexico and  
22 Colorado. While on the bench, I presided over a total of more than 140 federal trials. I also presided  
23 over numerous settlement conferences in complex business disputes and class actions. I left the  
24 federal bench in 1991, and joined Irell & Manella LLP shortly thereafter.

25 3. I now devote my professional time to serving as a mediator and arbitrator in  
26 connection with large, complex cases such as this matter. I have successfully mediated numerous  
27 complex commercial cases, including well over 100 complex class action matters. In addition, I  
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1 have mediated hundreds of disputes referred to me by private parties and courts, and I have been  
2 appointed as a Special Master by numerous federal courts in complex civil proceedings. Without in  
3 any way waiving the mediation privilege, I make this declaration based on personal knowledge and  
4 am competent to testify as to the matters set forth herein.

5 **The Initial Mediation Session**

6 4. The parties hired me to mediate and supervise settlement negotiations in this case,  
7 which I observed to be at all times hard-fought and at arm's-length. Indeed, my sense at the outset  
8 of this mediation was that settlement was unlikely because the parties were so far apart, and so  
9 adamant in advancing their respective positions.

10 5. The first in-person mediation session was conducted in Newport Beach, California,  
11 on February 20, 2013. Prior to the mediation, I required the parties to submit briefs and supporting  
12 evidence to me, which I then thoroughly reviewed and analyzed. These briefs, and the supporting  
13 evidence, detailed the strengths and weaknesses of both sides' positions. During the mediation  
14 process, counsel for both parties supplemented these arguments in response to pointed inquiries from  
15 me in private sessions, as well as in joint sessions based upon the inquiries of their opponents.

16 6. At the mediation, Plaintiffs were represented by lead counsel from the law firm of  
17 Saltz Mongeluzzi Barrett & Bendesky, as well as other counsel from Berman DeValerio, Hagens  
18 Berman Sobol & Shaprio, and Gustafson Gluek. Defendants were represented by their in-house  
19 counsel, and by outside counsel from Alston & Bird. This initial mediation session was not  
20 successful; the parties clearly needed to litigate certain issues and to develop their positions more  
21 fully before a more meaningful settlement dialog could occur.

22 **The Next Mediation Session**

23 7. On August 20, 2013, I presided over a second in-person mediation session in New  
24 York City. This mediation was attended by the same individuals who attended the first session in  
25 February, except for representatives from the Berman DeValerio and Hagens Berman law firms. In  
26 addition, representatives of the Defendants' insurance carriers attended.

27 8. Prior to this session, the parties submitted supplemental mediation briefs and  
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1 additional supporting evidence. These briefs detailed the significant evolution of the litigation since  
2 the first session, and identified additional strengths and weaknesses of the parties' positions. Prior to  
3 the second mediation session, the parties had exchanged expert reports which focused their  
4 positions. These expert reports played a central role in the parties' evaluation of their respective  
5 positions, and of what would constitute an appropriate settlement under the circumstances.

6 9. Recognizing that the parties were still very far apart, I developed a plan to facilitate a  
7 settlement. First, I worked with the parties to structure the main deal points of a settlement. Next, I  
8 provided a recommendation regarding a monetary range that I thought was fair and reasonable based  
9 on my neutral evaluation of the case, the evidence, and the risks facing both sides at that point in  
10 time. I reached this number in part based on my review and consideration of the orders issued by the  
11 Court, the evidence and arguments offered by both sides, data concerning the past and expected  
12 claims at issue, my experience mediating and litigating complex class actions, and my assessment of  
13 the substantial risks to both sides that the future litigation landscape presented. The recommendation  
14 was made to the parties on a double-blind basis, such that neither party would know if the other  
15 party had accepted or rejected the proposal unless both sides agreed to accept it. The parties did not  
16 reach an agreement at this mediation session.

#### 17 Further Mediation Efforts

18 10. The parties ultimately agreed to accept my recommendation to continue negotiations  
19 within the range that I had recommended. I was kept current by the parties on the status of their  
20 negotiations and provided input concerning those discussions. More than three months after the last  
21 mediation session, counsel for the parties agreed to a settlement in principle, subject to the necessary  
22 approvals required by stakeholders on both sides.

23 11. From my experience and personal involvement as the mediator for this case, I  
24 observed first-hand that the parties engaged in hard-fought litigation and negotiation. The journey  
25 towards settlement was not a fast, easy, or certain one. The parties fought every step of the way,  
26 including over the appropriate amount of attorneys' fees. It is my considered opinion, however, that  
27 the settlement is fair, reasonable, and adequate, and I strongly support its approval in all respects.

1           12.     The settlement was the product of extensive arm's-length negotiations conducted  
2 after more than 18 months of accelerated, aggressive, complex litigation. Both parties had  
3 conducted substantial fact discovery and served their expert reports relating to the merits of the  
4 litigation. There was no collusion whatsoever in reaching the terms of the settlement. I believe it  
5 was in the best interests of the parties they that they agree upon the settlement now before the Court.  
6 The settlement obtained is particularly fair, reasonable, and adequate because it provides a very  
7 substantial recovery for the settlement class, especially when weighing the potential exposure to  
8 Defendant posed by Plaintiffs' claims against the significant obstacles standing in the way of  
9 achieving a resolution of those claims.

10           13.     Based upon my experience in this case and other complex class actions as a lawyer,  
11 mediator and former federal judge, as well as my involvement with the parties and counsel in this  
12 case, I am of the opinion that the total settlement amount of \$23 million is fair, reasonable, and  
13 adequate. That settlement amount is within the settlement range that I had recommended in August  
14 of 2013. At the time that I proposed the settlement range, I was aware that the parties were looking  
15 at a settlement calling for the payment of a reduced percentage of the claims made over a five-year  
16 period, and I had been provided with Defendants' arguments regarding the failure rate of the product  
17 and data establishing the existing volume of claims presented to Watts and the amount of Watts'  
18 payouts on those claims.

19           14.     I do not believe that Lead Counsel and the Plaintiffs could obtain more money for the  
20 putative class without going to trial. Even then, Plaintiffs faced substantial risks that a jury would  
21 award less, if it made any award at all. This is particularly so given the uncertainty regarding  
22 whether any class could be certified, whether any certified class could be maintained through trial,  
23 and whether Plaintiffs could establish a defect in light of Defendants' contention that the failure rate  
24 for the product was far too low for any sort of "defect" to exist. Defendants further argued that any  
25 losses suffered by Plaintiffs and the putative class were the result of user error and product misuse,  
26 which would have been advanced as an intervening cause at trial. Plaintiffs contended that there was  
27 evidence that presented a risk to Defendants that they would overcome these defenses.

1           15.     This case also could have presented numerous appellate issues for both sides, which  
2 could have caused this case to drag on for years, with a verdict providing no certainty or finality to  
3 either side. On the other hand, the settlement ensures that the settlement class will receive certain  
4 money without being exposed to the risks, costs, or delays of trial and appeal.

5           16.     Based on the briefs, arguments, and evidence presented I can attest that the attorneys  
6 working on this matter for both sides are outstanding lawyers who worked with a high level of skill,  
7 efficiency and creativity on behalf of their clients. Indeed, the advocacy of both sides was  
8 outstanding. Further, Lead Counsel litigated this matter on an entirely contingent basis and  
9 advanced all reasonable litigation costs with no recovery and no revenue from their work. Despite  
10 these risks, they continued to push for the best possible settlement for the settlement class, even  
11 though they could have settled this case for less money. Lead Counsel was willing to try this case,  
12 and face the risk of losing with no chance to recover their expenses or for their labor, if they were  
13 not able to achieve a fair and reasonable result for the settlement class. I believe that at all times, the  
14 named Plaintiffs and Lead Counsel diligently represented the settlement class.

15           I declare under penalty of perjury under the laws of the United States of America that the  
16 foregoing is true and correct. Executed this 27th day of January 2014.

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Layn R. Phillips  
Former U.S. District Court Judge