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Magistrate Judge Bowman issued a Report and Recommendation (Doc. 266) on February 19, 2014, recommending that the Defendant's motion for summary judgment be denied, finding that the evidence is such that a reasonable trier of fact could find for the Plaintiff, and that a question of material fact exists regarding whether Defendant's were required to completely replace the polybutylene piping in Plaintiff's home.

Magistrate Judge Bowman further issued a Report and Recommendation (Doc. 270) on March 13, 2014, recommending this Court deny Defendant's motion to decertify the class pursuant to Rule 23, Fed.R.Civ.P., finding that the Court carefully considered the nature of the damages each class member might have suffered based on Plaintiff's breach of contract theory and that such damages suffered by the class members stem directly from Defendant's alleged breach, finding the Supreme Court decision, *Comcast Corp. v. Behrend*, 133 S.Ct. 1426 (2013), upon which Defendant bases its argument to revisit the issue of class certification, inapposite.

The Reports and Recommendations provide a thorough analysis of the facts and issues presented and the applicable legal standards under the Federal Rules of Civil Procedure in reviewing a motion for summary judgment pursuant to Rule 56, and in considering class certification pursuant to Rule 23(a) and (b)(2) and (3). Also set forth by Magistrate Judge Bowman in the Reports and Recommendations at bar is the procedural background of this case, including the Court's previous denials of Defendant's motion to dismiss, initial motion for summary judgment, the denial of Plaintiff's original motion to certify a nationwide class, the granting of Plaintiff's second motion for Arizona-only class certification and the partial granting of Plaintiff's request for summary judgment.

The Court, after considering all matters presented, including the motions, responses in opposition, replies, the Reports and Recommendations, objections, responses and replies thereto, shall accept as the findings of fact and conclusions of law the Reports and Recommendations of the Magistrate Judge.

The Court finds the Report and Recommendation of the Magistrate Judge to deny Defendant's motion to decertify the class well reasoned and further finds no basis to disturb the Court's ruling regarding Arizona class certification set forth in its Order adopting the Report and Recommendation of Magistrate Judge Edmonds and thereby granting Plaintiffs' Motion for Certification of an Arizona-Only Class. (Doc. 145)¹ The Court's ruling on Plaintiff's Motion for Class Certification of an Arizona-Only Class was issued upon review of all matters presented, including the objections to the Report and Recommendation (Doc. 139) and the objections, responses and reply thereto.

In regard to Defendant's Objections to the Magistrate Judge's Order Denying State Farm's Motion to Exclude the Testimony of Daniel Johnston, in which Defendant "submits that the Court should set aside the Magistrate Judge's Order as clearly erroneous and contrary to law under Rule 72(a) and should grant State Farm's motion to exclude the testimony of Daniel Johnston in its entirely," the Court finds, following review of Defendant's objection, and the response, reply and surreply thereto, that Magistrate Judge Bowman did not err, nor is there any legal basis to set aside the Order (Doc. 249) denying Defendant's motion to exclude the testimony of Plaintiff's expert witness, Daniel Johnston.

The Court, also having reviewed the November 3, 2014 Report and Recommendation issued by Judge Bowman on Plaintiff Motion for Final Judgment (Doc. 285), to which no objections have been filed, shall adopt and accept the recommendation to deny Plaintiff's request for an entry of final judgment.

Based on the foregoing and upon consideration of all matters presented,

IT IS HEREBY ORDERED that Magistrate Judge Bowman's Report and Recommendation (Doc. 266) is hereby **ACCEPTED** and **ADOPTED** as the findings of fact and conclusions of law by this Court; accordingly

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (Doc. 246) is **DENIED**;

¹The United States Court of Appeals for the Ninth Circuit denied Defendant's petition for permission to appeal this Court's March 31, 2011 order granting class action certification. (Doc. 160).

1	IT IS FURTHER ORDERED that Magistrate Judge Bowman's Report and
2	Recommendation (Doc. 270) is hereby ACCEPTED and ADOPTED as the findings of fact
3	and conclusions of law by this Court; accordingly
4	IT IS FURTHER ORDERED that Defendant's Motion to Decertify Class (Doc.
5	248) is DENIED ;
6	IT IS FURTHER ORDERED that Defendant's Objections to the Magistrate Judge's
7	Order Denying State Farm's Motion to Exclude the Testimony of Daniel Johnston (Doc. 250)
8	are considered and the Magistrate Judge's Order is affirmed;
9	IT IS FURTHER ORDERED that Magistrate Judge Bowman's Report and
10	Recommendation (Doc. 285) is hereby ACCEPTED and ADOPTED as the findings of fact
11	and conclusions of law by this Court; accordingly
12	IT IS FURTHER ORDERED Plaintiff's Motion for Final Judgment (Doc. 276) is
13	DENIED;
14	IT IS FURTHER ORDERED that this case is deemed ready for trial.
15	IT IS FURTHER ORDERED that the reference to Magistrate Judge Bowman is
16	hereby withdrawn.
17	IT IS FURTHER ORDERED that a Pretrial Conference is set for Thursday,
18	March 12, 2015 at 10:00 a.m.
19	IT IS FURTHER ORDERED that the parties shall file a proposed Joint Pretrial
20	Order on or before January 30, 2015, which shall include, but not be limited to, that
21	prescribed in the form of Joint Pretrial Order attached;
22	IT IS FURTHER ORDERED that any motions in limine shall be filed on or before
23	January 30, 2015, the date for filing the proposed Joint Pretrial Order; any response shall
24	be filed within 10 days of the filing date of a motion. Motions in limine and responses
25	thereto are limited to five (5) pages. No replies are permitted.
26	IT IS FURTHER ORDERED that a firm trial date shall be set at the Pretrial
27	Conference;
28	

IT IS FURTHER ORDERED that the parties shall file a Request for Pretrial Settlement Conference, if they wish to pursue settlement, at which time this matter will be referred to Honorable Bruce G. Macdonald, United States Magistrate Judge, for impartial settlement negotiations.

DATED this 30th day of December, 2014.

Senior United States District Judge

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6	IN THE UNITED STATES DISTRICT COURT
7	FOR THE DISTRICT OF ARIZONA
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9	*, No. CV *-*-TUC-FRZ
10	Plaintiff(s), PROPOSED JOINT PRETRIAL ORDER
11	vs.
12	*,
13	Defendant(s).
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16	
17	The following is the proposed Joint Pretrial Order which shall, upon approval of the
18	Court, become the Final Pretrial Order.
19	I.
20	IDENTIFICATION OF PARTIES AND COUNSEL
21	II.
22	STATEMENT OF JURISDICTION
23	Briefly state the facts and cite the statutes which give this Court jurisdiction.
24	III.
25	NATURE OF ACTION
26	Provide a concise statement of the cause of action, and the relief sought.
27	IV.
28	STIPULATIONS AND UNCONTESTED FACTS

1	v.
2	CONTESTED ISSUES OF FACT
3	The following are issues of fact to be tried and determined upon trial. Each issue of
4	fact must be stated separately and in specific terms, followed by the parties' contentions as
5	to each issue.
6	Issue:
Plaintiff(s) contends: Defendant(s) contends:	` '
	Defendant(s) contends.
9	VI.
10	RELEVANT UNCONTESTED ISSUES OF LAW
11	(i.e. burdens of proof; standards of review)
12	VII.
13	RELEVANT UNCONTESTED ISSUES OF LAW
14	The following are issues of law to be tried and determined upon trial. Each issue of
15	law must be stated separately and in specific terms, followed by the parties' contentions as
16	to each issue.
17	Issue:
18	Plaintiff(s) contends: Defendant(s) contends:
19	
20	VIII.
21	LIST OF WITNESSES
22	Each party shall provide a list of witnesses intended to be called at trial. Each
23	witness shall be indicated as either fact or expert. A brief statement as to the testimony of
24	each expert witness shall also be included.
25	IX.
26	LIST OF EXHIBITS
27	Each party shall provide a list of numbered exhibits. A statement of either
28	UNCONTESTED or CONTESTED shall follow each listed exhibit.

1	If contested, a brief statement of the objection by the opposing party shall follow the
2	listed exhibit.
3	х.
4	LIST OF DEPOSITIONS
5	Portions of depositions that will be read at trial must be listed by page and line
6	number. A statement of either UNCONTESTED or CONTESTED shall follow. If
7	contested, a brief statement of the objection by the opposing party shall follow the listed
8	portion of the deposition to be offered.
9	XI. MOTIONS IN LIMINE
10	Plaintiff(s) have filed the following Motions in Limine:
11	Defendant(s) have filed the following Motions in Limine:
12	
13	XII. JURY TRIAL or BENCH TRIAL
14	For a Jury Trial
15	Trial briefs (only upon request of the Court), proposed voir dire, interrogatories to the
16	jury, stipulated jury instructions and instructions which are not agreed upon, shall be filed
17	10 days prior to Trial.
18	For a Bench Trial
19	Trial briefs (only upon request of the Court), shall be filed 10 days prior to Trial.
20	Parties are referred to LRCiv 52.1 regarding the filing of proposed findings of fact and
21	conclusions of law.
22	XIII. PROBABLE LENGTH OF TRIAL
23	
24	CERTIFICATION
25	The undersigned counsel for each of the parties in this action do hereby approve and
26	certify the form and content of this proposed Joint Pretrial Order.
27	
28	Attorney for the Plaintiff(s) Attorney for the Defendant(s)

1	This proposed Joint Pretrial Order is hereby approved as the Final Pretrial Order on
2	thisday of, 2015.
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5	Frank R. Zapata United States District Judge
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