

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: CERTAINTeed CORPORATION : MDL DOCKET NO. 1817
ROOFING SHINGLES PRODUCTS :
LIABILITY LITIGATION :

This Report relates to: :

ALL CASES :

TENTH REPORT TO THE COURT SUBMITTED BY
CERTAINTeed LLC UNDER SECTION 4.33 OF THE AGREEMENT OF
SETTLEMENT AND COMPROMISE AS AMENDED

CertainTeed LLC, a Delaware limited liability company, successor to certain assets and liabilities of CertainTeed Corporation (“CertainTeed”), files this report pursuant to Section 4.33 of the Agreement of Settlement and Compromise as Amended (the “Settlement Agreement”) and pursuant to the Court’s Order entered November 3, 2011 (the “November 3, 2011, Order”).

Section 4.33 of the Settlement Agreement provides:

On the first anniversary of the Effective Date, and annually thereafter until one year after the expiration of the last of the warranty periods [pertaining to the shingles at issue in the case] CertainTeed shall file with the Court and serve on a designee of Class Counsel a report identifying the Claimants whose claims have been resolved in the prior 12 months, the amount distributed to each Eligible Claimant, and the basis for denying any claims.

Because claims data for the full twelve-month period is not available by the anniversary of the Effective Date of the Settlement, this Court, in its November 3, 2011, Order, authorized the filing on November 1 of a report containing detailed claims data for the full twelve month period ending September 30 of the year of the report. Accordingly, CertainTeed now files this Tenth Report covering claims data for the period from October 2019 through September 2020.

Accompanying this report is a computer disc containing a list (Exhibit A), in PDF format, showing each claimant whose claim has been accepted and the amounts paid to the claimant, as well as a list (Exhibit B), also in PDF format, identifying each claimant whose claim has been denied and the reason for the denial. These exhibits are being filed under seal in order to maintain the claimants' privacy in accordance with the November 3, 2011, Order.¹

Class Members in this case are defined as follows:

All individuals and entities that own, as of [December 15, 2009], homes, residences, buildings, or other structures located in the United States or Canada whose roofs contain or contained roofing shingles made with a felt reinforcement base material that is saturated with asphalt, also known as organic roofing shingles, manufactured by CertainTeed after July 1, 1987; all individuals and entities who previously owned such a building and who, prior to [December 15, 2009] sold or transferred the building and at the time of the sale or transfer retained the right to make a claim for the shingles pursuant to a valid documented assignment; and all individuals and entities who owned such a building and who, between August 1, 2006, and [October 1, 2010], have settled . . . their warranty claims for such shingles.

During the period October 2019 through September 2020, CertainTeed reviewed, processed, and paid a total of \$118,302.93 to claimants who submitted claims pursuant to the Settlement Agreement. This total included \$6,200.00 in payments of up to \$50 per claim to defray the cost of removing and shipping shingle samples to CertainTeed pursuant to Section 4.6

¹ Pursuant to the direction of the Clerk of Court when the Ninth Report was filed in 2019, Exhibits A and B are being submitted in PDF format. Each exhibit has been divided into two separate PDF files – a summary file and a

of the Settlement Agreement (coded as RSS in the fourth (4th) column of Exhibit A, Summary tab); a total of 124 claimants received such payments.

The balance of the compensation – a total of \$112,102.93 – was paid to building owners whose organic shingles were covered by a CertainTeed warranty and who did not resolve their warranty claims prior to the Effective Date of the Settlement Agreement. The recipients of these payments include not only Class Members but also individuals who purchased the building on which the shingles were installed after the execution of the Settlement Agreement and who succeeded to the rights of the Class Members from whom they purchased the buildings in accordance with Section 4.31(a) of the Settlement Agreement because they were qualified to assert a warranty claim in accordance with the transferability provisions of the CertainTeed warranty applicable to their shingles. Under the Settlement Agreement, these claims are being paid at the rate of \$74/square, with \$34/square prorated from date of installation, and \$40/square not prorated for the first ten (10) years following installation and, thereafter, prorated in accordance with the regular proration schedules for each warranty. Where the SureStart provision of the warranty is still applicable, however, the full SureStart amount is being paid. During the period October 2019 through September 2020, 141 warranty claims (coded as RCW in the third (3rd) column of Exhibit A, Summary tab) were paid under the provisions of the Settlement Agreement. Payments for these claims averaged approximately \$795.06 per claim.

The Settlement Agreement also provided for compensation to be paid to two other categories of claimants:

- *Transferee claims* are claims of Class Members whose organic shingles are not covered by CertainTeed's warranties because they purchased, on or before

detailed file. Each detailed file was prepared as a single PDF but because of its volume – both the number of rows and the number of columns -- it is necessary to magnify each PDF to a 200% magnification to be legible.

December 15, 2009, a previously occupied building and the applicable warranty did not provide warranty coverage to transferees.

- *Releaser claims* are claims of Class Members who resolved their warranty claims between August 1, 2006, and the Effective Date of the Settlement Agreement, and who executed a release in favor of CertainTeed.

Under the Settlement Agreement, both Transferee and Releaser claims were required to be postmarked or otherwise received by CertainTeed within 12 months of the Effective Date of the Settlement Agreement – that is, by October 3, 2011. During the period October 2019 through September 2020, no Releaser claims or Transferee claims were submitted or paid.

During the period October 2019 through September 2020, CertainTeed denied a total of 237 claims. More than 96.2% of the denied claims – a total of 228 – were denied because the claimant was not a Class Member: 210 of these claimants had fiberglass rather than organic shingles and eighteen (18) had shingles not manufactured by CertainTeed. The nine (9) other denied claims were denied because the applicable warranties had expired. No claims were denied either because the shingles did not exhibit “Damage” as defined in Section 3.6 of the Settlement Agreement or on the basis of any of the causation defenses set forth in Section 3.7 of the Settlement Agreement.

On June 19, 2012, this Court approved the parties’ selection of Heffler Claims Administration to serve as the Independent Claims Administrator pursuant to Section 4.19 of the Settlement Agreement and BrightClaim, Inc. as the Independent Inspector pursuant to Section 4.20 of the Settlement Agreement. During the period October 2019 through September 2020, no claimants requested that their claim files be submitted to the Independent Claims Administrator for independent review of CertainTeed’s denial of all or part of the claims.

On October 28, 2013, this Court approved the parties' selection of the Honorable Louis C. Bechtle to serve as the Special Master pursuant to Section 5.1 of the Settlement Agreement. No issues have been submitted to Judge Bechtle for resolution during this past year.

Respectfully submitted,

s/Arlene Fickler
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Dated: November 2, 2020

CERTIFICATE OF SERVICE

I, Arlene Fickler, hereby certify that I caused a true and correct copy of the Tenth Report to the Court Submitted by CertainTeed LLC Under Section 4.33 of the Agreement of Settlement and Compromise as Amended to be filed and served today, November 2, 2020, via the Court's ECF system, where it is available for viewing and downloading. Copies of the accompanying exhibits, which are being filed under seal, were served upon Class Counsel Charles Schaffer, Esq. and Class Counsel Robert Shelquist, Esq. by UPS on November 2, 2020, in connection with the electronic filing.

s/Arlene Fickler

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