

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: CERTAINTEED CORPORATION
ROOFING SHINGLES PRODUCTS
LIABILITY LITIGATION

MDL DOCKET NO. 1817

This Report relates to:

ALL CASES

TWELFTH REPORT TO THE COURT SUBMITTED BY
CERTAINTEED LLC PURSUANT TO
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 Orders entered on November 3, 2011, and August 4, 2021.

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.

On July 30, 2021, having filed ten reports concerning the administration of the settlement, CertainTeed filed an unopposed motion seeking an order eliminating its obligation to report claimant-specific information in the annual report. Because the number of claims filed had declined each year to the point that fewer than 1% of the number of claims filed in the first year of claims administration were filed in the tenth year, CertainTeed, with Class Counsel's agreement, sought to reduce the burden and cost on CertainTeed and the office of the Clerk of this Court of filing annual reports containing claimant specific information under seal. That motion was granted on August 4, 2021.

Accordingly, pursuant to Section 4.33 of the Settlement Agreement as amended by the Court's orders of November 3, 2011, and August 4, 2021, CertainTeed now files this Twelfth Report covering claims data for the period from October 2021 through September 2022.

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 2021 through September 2022, CertainTeed reviewed, processed, and paid a total of \$20,813.72 to claimants who submitted claims pursuant to the Settlement Agreement. This total included \$1,350.00 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 of the Settlement Agreement; a total of twenty-seven (27) claimants received such payments.

The balance of the compensation – a total of \$19,463.72 – 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, prorated from date of installation in accordance with the regular proration schedules for each warranty. No claims were covered by the SureStart provision of the applicable limited warranty. During the period October 2021 through September 2022, twenty-eight (28) warranty claims were paid under the provisions of the Settlement Agreement. Payments for these claims averaged approximately \$695.13 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 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 2021 through September 2022, no Releaser claims or Transferee claims were submitted or paid.

During the period October 2021 through September 2022, CertainTeed denied a total of 64 claims. Virtually all of these claims – all but two – were filed by building owners who were not class members because their shingles were not CertainTeed organic shingles. The warranties of the other two claimants 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. In 2019, Heffler was acquired by Duff and Phelps and the successor entity is now operating under the name Kroll Settlement Administration. During the period October 2021 through September 2022, 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. During the preparation of this report, CertainTeed learned that Judge Bechtle has retired. In light of the paucity of appeals to Judge Bechtle during the twelve years of administration of this Settlement (with the last appeal having been submitted and resolved by him in 2014) and the continuing decline in the number of claims filed under the Settlement Agreement, Class Counsel and

CertainTeed have agreed to defer seeking the appointment of a successor to Judge Bechtle until an issue arises which needs to be resolved by a Special Master.

Respectfully submitted,

s/Arlene Fickler

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Dated: November 1, 2022