

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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<b>IN RE: CERTAINTEED CORPORATION</b>	:	
<b>ROOFING SHINGLES PRODUCTS</b>	:	
<b>LIABILITY LITIGATION</b>	:	
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<b>This Report relates to:</b>	:	<b>MDL DOCKET NO. 1817</b>
	:	
<b>ALL CASES</b>	:	

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**CERTAINTEED CORPORATION'S AMENDED FIRST REPORT TO THE COURT UNDER SECTION 4.33 OF THE AGREEMENT OF SETTLEMENT AND COMPROMISE AS AMENDED FILED ON DECEMBER 29, 2009**

CertainTeed files this amended report pursuant to the Court's Order entered November 3, 2011, permitting the filing of Exhibits A and B to the amended report under seal (the "November 3 Order"), and pursuant to Paragraph 4.33 of the Agreement of Settlement and Compromise as Amended filed on December 29, 2009 (the "Settlement Agreement"). 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 September 2011 claims data was not yet available by the October 3, 2011 filing deadline, CertainTeed filed a Preliminary Report on that date. The Preliminary Report provided aggregate data for the period from October 2010 through August 2011, and advised the Court that it would file detailed claims data for the full twelve month period when it became available.

Accordingly, CertainTeed now files this First Report covering claims data for the period from October 2010, through September 2011.

Accompanying this report is a computer disc containing a list (Exhibit A), in electronic 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 electronic 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 Order.

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 2010 through September 2011, CertainTeed reviewed, processed and paid a total of \$75,808,155.55 to 61,639 Class Members. These payments included a total of \$711,503.05 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 (coded as RSS in column E of Exhibit A). The remaining amount, \$75,096,652.50, was paid to class members in accordance with the character of their claims under the Settlement Agreement. Specifically, there are three categories of claims that qualify for payment: warranty claims, transferee claims, and releaser claims.

*Warranty claims* are claims of class members whose organic shingles are covered by a CertainTeed warranty and who did not resolve their warranty claims prior to the Effective Date

of the Settlement Agreement. 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 first ten years following installation and, thereafter, prorated on 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 2010 through September 2011, 45,548 warranty claims (coded as RCW in column D of Exhibit A) were paid under these provisions of the Settlement Agreement. Payments for these claims totaled \$70,074,964.62, or an average of approximately \$1,538 per claim.

*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. Under the Settlement Agreement, transferee claims are being paid \$34/square prorated from the date of installation, provided that the claims are postmarked or otherwise received by CertainTeed within 12 months of the Effective Date of the Settlement Agreement. During the period October 2010 through September 2011, 4,979 transferee claims (coded as RCT in column C of Exhibit A) were paid under these provisions of the Settlement Agreement. Payments on transferee claims totaled \$3,328,612.00, or an average of approximately \$669 per claim.

*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. Releaser claims are paid in an amount equal to 20% of the difference between the amount received on the warranty claim and the amount that would have been received had the releaser made a warranty claim under the Settlement Agreement. During the period October 2010 through September 2011, 11,112 releaser claims (coded as RCR in column

B of Exhibit A) were compensated under these provisions of the Settlement Agreement.

Payments for releaser claims totaled \$1,693,075.88, or an average of approximately \$152 per claim.

During the period October 2010 through September 2011, CertainTeed has denied a total of 6,926 claims. Over half of these denied claims (3,790) consist of claims of releasers who had already received consideration equal to the value of the payment they were eligible to receive under the Settlement Agreement, either in cash or in replacement shingles, and who, therefore, were not eligible to receive additional consideration under the Settlement Agreement.

A total of 3,059 claims were denied because the claimant was not a class member: 1,932 of these claimants had fiberglass rather than organic shingles; 652 had shingles not manufactured by CertainTeed; 241 claimants had signed a release prior to August 1, 2006; 149 had purchased the building on which the shingles were installed after December 15, 2009; 44 had shingles that were installed prior to July 1, 1987; 38 filed claims regarding shingles with warranties that had previously expired; and 3 claimants had previously litigated their claims to conclusion in another court.

Only 77 claims were denied because the shingles did not exhibit "Damage" as defined in Section 3.6 of the Settlement Agreement. No claims were denied on the basis of the causation defenses set forth in Section 3.7 of the Settlement Agreement.

For all claims filed, CertainTeed has complied with the time limits for processing the claims identified in Paragraph 4.17 of the Settlement Agreement.

To date, there have been very few requests for an appeal. None have been processed because counsel are currently negotiating about the selection of the Independent Claims Administrator provided for in Section 4.19 of the Settlement Agreement. Counsel have agreed to

extend the deadlines for filing appeals pending the selection of the Independent Claims Administrator and expect to reach resolution on this issue shortly.

Respectfully submitted,

s/Arlene Fickler  
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Dated: November 7, 2011

**CERTIFICATE OF SERVICE**

I, Arlene Fickler, hereby certify that I caused a true and correct copy of CertainTeed Corporation's Amended First Report to the Court Under Section 4.33 of the Agreement of Settlement and Compromise as Amended Filed on December 29, 2009 to be filed and served today, November 7, 2011, 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. by hand delivery and upon Class Counsel Robert Shelquist, Esq. by Federal Express on November 2, 2011 in connection with the electronic filing, on November 1, 2011, of CertainTeed's Motion for an Order Governing Procedures for Filing of CertainTeed's Annual Report to Court Regarding the Administration of the Settlement and CertainTeed's First Report to the Court Under Section 4.33 of the Agreement of Settlement and Compromise as Amended Filed on December 29, 2009.

s/Arlene Fickler  
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**EXHIBITS A AND B**

**TO CERTAINTIED CORPORATION'S AMENDED  
FIRST REPORT TO THE COURT UNDER SECTION 4.33  
OF THE AGREEMENT OF SETTLEMENT AND  
COMPROMISE AS AMENDED**

**FILED ON DECEMBER 29<sup>TH</sup>, 2009**

**FILED UNDER SEAL**