

Products liability - Class action - Settlement - Windows

By: Tom Egan January 2, 2015

Where a settlement of a class action has been proposed, the agreement is fair, reasonable and adequate.

Approved.

"This is a national class action against defendant, MW Manufacturers, Inc. ('MW'), for breach of warranty for its vinyl-clad windows. The windows in question were those known as Freedom, V-Wood, Freedom 600, and Freedom 800. These windows are constructed of wood coated with PVC (vinyl). MW manufactured Freedom windows from 1987 to 2003, V-Wood windows from 1995 to 2006, Freedom 600 from 2006 to the present, and Freedom 800 windows from 2003 to the present. Plaintiffs allege that each of these lines of windows suffer from a common design defect: a gap in the vinyl where the window jamb meets the window sill that allows water to penetrate into the window, causing water damage and, ultimately, rot. Plaintiffs also contend that MW failed to properly test the windows and falsely advertised and marketed them. Defendant disputes all of these allegations. Experts from both sides have produced conflicting testimony regarding the design and performance of the windows.

"MW provided warranty coverage for the windows through two uniform written warranties relevant to the claims in this suit. The first covered windows produced from the introduction of the products until 1998; the second, for windows produced since 1998. The warranties guaranteed the original homeowner who purchased the product that the windows would be free from manufacturing defects in materials and workmanship for a specified length of time for each warranty, one year or ten years. ...

"After the close of discovery, the parties engaged in several rounds of mediation with Professor Eric Green of Resolutions, LLC, an experienced and well-qualified mediator, which eventually resulted in the proposed Settlement Agreement ('Agreement'). Notice was provided to the Settlement Class after Preliminary Approval of the settlement, and this motion followed. ...

"The settlement process has been long and hard-fought, proceeding after extensive and contentious discovery. Settlement avoids what would certainly be complex, expensive, and protracted litigation with substantial uncertainty on both sides. Counsel on both sides have considerable experience in this area of the law and all were zealous in their representation of their clients' interests. The negotiations leading to this Agreement were conducted diligently and at arms length with the facilitation of a respected and experienced neutral mediator. For all of these reasons, I find the Proposed Settlement Agreement to be fair, reasonable, and adequate."

Gulbankian, et al. v. MW Manufacturers, Inc. (Lawyers Weekly No. 02-631-14) (14 pages) (Zobel, J.) (USDC) (Civil Action No. 10-10392-RWZ) (Dec. 29, 2014).

[Click here to find the full text of the opinion.](#)

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