

Consumers Strike \$44M Deal On Plumbing Part Defect Claims

By **Emily Field**

Law360 (October 29, 2018, 9:13 PM EDT) -- A proposed class of consumers on Friday told a New Jersey federal court that they've reached a \$43.5 million deal with a plumbing products company to end claims that its tubings, fittings and clamps are defective.

The settlement comes after almost five years of litigation and numerous mediation sessions, said the consumers, who claim that NIBCO Inc.'s polyethylene plumbing tubes, the brass fittings required to connect the tubing together, and the stainless steel clamps that join the tubing and fittings fail prematurely.

"The proposed settlement is an excellent result for property owners," Joe Sauder of Sauder Schelkopf said in a statement. "It provides substantial relief for past and future failures that are related to the products at issue, including the option for a replumb."

Rex Martin, chairman of NIBCO's Board of Directors, said in a statement that the proposed settlement "is consistent with our core commitment to quality and shows that we stand behind the products we make and sell."

"The company has agreed to settle these claims to provide a predictable path for putting this litigation behind us and to give affected customers who have had water leaks a way to pursue their claims without the time and expense of individual lawsuits," Martin said.

The proposal covers claims from property damage from water leaks since 2005, according to the motion for preliminary settlement approval. The proposed settlement excludes damage from water leaks caused by incorrect installation by a plumber or a nail piercing a NIBCO product. Consumers can also submit claims for compensation for leaks for six years after the settlement takes effect, according to the filing.

Those who have had three or more leaks can also obtain a replumbing of their entire house or building, according to the filing. The replumbing will be compensated at the sum of \$600 for each plumbing fixture, such as a sink or washing machine, and \$300 for each half fixture, such as a toilet, for a maximum of \$16,000, according to the consumers.

Eligible consumers will receive up to 70 percent of their claimed losses, according to the filing.

Counsel for the consumers will seek fees of about \$12.9 million, and costs of about \$1.1 million, according to the motion.

News of the settlement will be published in print and digital media calculated to reach owners of residential and commercial property, as well as plumbers, who are often the direct purchasers of the products, according to the motion.

The settlement administrator, Angeion Group LLC, will also email notices to about 31,000 decision makers at water damage repair companies, 48,000 decision makers at homeowners' insurance companies and about 162,000 plumbers across the country, according to the consumers.

One of the named plaintiffs, Texas homeowner Michael McMahon, moved into his newly built home in 2013, according to a 2015 second amended complaint.

The house was built with NIBCO products and since he moved in, there have been six leaks, three of which caused damage, according to the complaint.

"The leaking water saturated the walls of his garage, damaged personal property located in the garage, damaged the walls of his home, and flooded his first floor and garage," the complaint said.

The consumers are represented by Joseph G. Sauder, Joseph B. Kenney and Matthew D. Schelkopf of Sauder Schelkopf LLC, Shanon J. Carson, Lawrence Deutsch and Jacob M. Polakoff of Berger Montague and Bruce D. Greenberg and Susana Cruz Hodge of Lite DePalma Greenberg LLC.

NIBCO is represented by J. Gordon Cooney Jr. and Franco A. Corrado of Morgan Lewis & Bockius LLP.

The case is Cole et al., v. NIBCO Inc., case number 3:13-cv-07871, in the U.S. District Court for the District of New Jersey.

--Editing by Michael Watanabe.