

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JACQUELYN D. AJOSE, KATHY SMITH,)	
SHARON KURTZ, PATRICIA EVETT,)	
JAMES L. BOYLAND & KATHY DUTTON)	
on behalf of themselves and all others)	
similarly situated,)	
)	NO. 3:14-cv-01707
Plaintiffs,)	
)	JUDGE CAMPBELL
v.)	MAGISTRATE JOE BROWN
)	
INTERLINE BRANDS, INC.)	
)	
Defendant.)	

FINAL ORDER AND JUDGMENT

On May 22, 2018, the Court entered its Order Granting Preliminary Approval of Class Action Settlement; Certification of Settlement Class; and Approval of Form and Content of Proposed Notice (“Preliminary Approval Order”).¹ ECF No. 256. The Final Fairness Hearing was held on October 19, 2018, during which the Court heard Plaintiffs’ Motion for Final Approval of the Class Action Settlement (ECF No. 261) and Motion for Attorneys’ Fees, Costs and Service Awards (ECF No. 257). Both Motions are unopposed.

WHEREAS, the Court finds it has jurisdiction over this Action;

WHEREAS, the Settlement Class conditionally certified in the Preliminary Approval Order has been appropriately certified for settlement purposes only;

¹ For the purposes of this Final Order and Judgment, the Court adopts all defined terms as set forth in the Settlement Agreement.

WHEREAS, the Court has not received any objection to the settlement and has been advised that no Settlement Class Member submitted any objection to the settlement after completion of the Notice Plan;

WHEREAS, the Court has considered both Motions, the Settlement Agreement (including its exhibits), and the fact that there have been no objections to the Settlement or opposition to the relief sought in either Motion; and

WHEREAS, the Court, otherwise fully advised in the premises, has considered the record of these proceedings, the representations, arguments, and recommendations of counsel for the parties, and the requirements of law.

NOW, THEREFOR, IT IS ON THIS 23rd DAY OF OCTOBER, 2018, ORDERED THAT:

1. The terms of the Settlement Agreement are approved. The Settlement Agreement is in all respects fair, reasonable, adequate, and proper, and in the best interest of the Settlement Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure, the Class Action Fairness Act, and other applicable law. Accordingly, the Court directs that the Agreement shall be implemented in accordance with its terms. In reaching this conclusion, the Court has considered a number of factors, including an assessment of the likelihood that the Class Representatives would prevail at trial; the range of possible recovery; the consideration provided to Settlement Class Members as compared to the range of possible recovery discounted for the inherent risks of litigation; the complexity, expense, and possible duration of litigation in the absence of a settlement; the absence of any objections to the settlement; and the stage of proceedings at which the settlement was reached. The proposed settlement was entered into by the Parties who were represented by experienced counsel and only after extensive arms'-length

negotiations with a third-party mediator. The proposed settlement is not the result of collusion. It was entered into in good faith, is reasonable, fair, and adequate, and is in the best interest of the Settlement Class. Co-Lead Counsel and the Class Representatives have fairly and adequately represented the Settlement Class.

2. Consistent with its Preliminary Approval Order, the Court hereby grants class certification of the following Settlement Class for purposes of final approval:

ALL PERSONS WHO OWN OR OWNED, OR LEASE OR LEASED, A RESIDENCE OR OTHER STRUCTURE LOCATED IN THE UNITED STATES CONTAINING A TOILET CONNECTOR, OR WHO OTHERWISE SUFFER OR HAVE SUFFERED PROPERTY DAMAGE FROM THE FAILURE OF A COUPLING NUT ON A TOILET CONNECTOR.

EXCLUDED FROM THE SETTLEMENT CLASS ARE THE FOLLOWING EXCLUDED PERSONS:

A. THOSE SETTLEMENT CLASS MEMBERS WHO PROPERLY EXCLUDED THEMSELVES FROM THE SETTLEMENT AS APPROVED BY THE COURT AS SET FORTH IN EXHIBIT A TO THIS FINAL ORDER AND JUDGMENT;

B. THOSE PROPERTY DAMAGE CLAIMS OF SETTLEMENT CLASS MEMBERS PREVIOUSLY RESOLVED THROUGH SETTLEMENT WITH OR FINAL JUDGMENT AGAINST INTERLINE OR OTHER RELEASED PARTIES;

C. INTERLINE AND ITS PARENT, SUBSIDIARIES AND AFFILIATES;

D. ALL THOSE PERSONS THAT SOLD OR DISTRIBUTED A TOILET CONNECTOR, INCLUDING CUSTOMERS, RETAILERS, RESELLERS, WHOLESALERS, MANUFACTURERS, SUPPLIERS AND DISTRIBUTORS OF INTERLINE, EXCEPT TO THE EXTENT SUCH A PERSON IS PURSUING EITHER (I) A REPLACEMENT CLAIM FOR A TOILET CONNECTOR THAT IS OR WAS INSTALLED IN A RESIDENCE OR OTHER STRUCTURE LOCATED IN THE UNITED STATES THAT THE PERSON OWNS OR OWNED, OR LEASES OR LEASED, OR (II) A DAMAGE CLAIM ARISING OUT OF OR RESULTING FROM THE FAILURE OF A TOILET CONNECTOR; AND

E. THE PRESIDING DISTRICT JUDGE AND MAGISTRATE JUDGE IN THE CLASS ACTION AND THEIR IMMEDIATE FAMILIES.

3. With respect to the proposed Settlement Class, this Court has determined that, for purposes of settlement of the Action only, the Class Representatives have satisfied each of the Rule 23(a) prerequisites.

- a. Joinder of all Settlement Class Members in a single proceeding would be impracticable, if not impossible, because of their numbers and dispersion. Fed. R. Civ. P. 23(a)(1).
- b. Common issues exist among Settlement Class Members' claims regarding whether the Coupling Nut on the Toilet Connectors is defective. Fed. R. Civ. P. 23(a)(2).
- c. The Class Representatives' claims are typical of those of the Settlement Class, in that: (i) the interest of the Plaintiffs' claims are typical of those of the Settlement Class; (ii) there are no apparent conflicts between or among the named Plaintiffs and the members of the Settlement Class; (iii) the Plaintiffs have been and are capable of continuing to be active participants both in the prosecution of, and the negotiations to settle, the Action; and (iv) the Plaintiffs and the Settlement Class are represented by qualified, reputable counsel who are experienced in preparing and prosecuting class actions, including those involving defective products.
- d. The Class Representatives and Class Counsel have fairly and adequately protected the interests of the Settlement Class. Fed. R. Civ. P. 23(a)(4).

4. The Court also "finds that the questions of law or fact common to class members predominate over any questions affecting only individual members," and that "a class action is

superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3). Here, Settlement Class Members’ claims are based on whether the Coupling Nut on the Toilet Connectors is defective. Common legal and factual questions predominate over any individual questions that may exist for purposes of this settlement, and the fact that the Parties are able to resolve the case on terms applicable to all Settlement Class Members underscores the predominance of common legal and factual questions for purposes of this settlement. In concluding that the Settlement Class should be certified pursuant to Rule 23(b)(3) for settlement purposes, the Court further finds that a class action is superior for purposes of resolving these claims because individual class members have not shown any interest in individually controlling the prosecution of separate actions. Moreover, the cost of litigation likely outpaces the individual recovery available to any Settlement Class Members. *See* Fed. R. Civ. P. 23(b)(3)(A). In accordance with the Supreme Court’s holding in *Amchem Prods v. Windsor*, 521 U.S. 591, 620 (1997), the Court need not address whether this case, if tried, would present issues of manageability under Fed. R. Civ. P. 23(b)(3)(D). Accordingly, the Court finds that, for purposes of this settlement, Rule 23(b)(3) has also been satisfied.

5. The Court finds that the Notice Plan, as approved by the Preliminary Approval Order: (i) satisfied the requirements of Rule 23(c)(3) and due process; (ii) was reasonable and the best practicable notice under the circumstances; (iii) reasonably apprised the Settlement Class of the pendency of the action, the terms of the Agreement, their right to object to the proposed settlement or opt out of the Settlement Class, the right to appear at the Final Fairness Hearing, and the Claims Process; and (iv) was reasonable and constituted due, adequate, and sufficient notice to all those entitled to receive notice.

6. The Court hereby determines that there is no just reason for delay, and that this Final Order and Judgment shall be final and entered. Consummation of the settlement shall proceed as described in the Settlement Agreement.

7. The Court hereby enters a judgment of dismissal of the Class Action, the Complaint therein, and claims by the Settlement Class Members, with prejudice and without costs, except as specified in this Final Order and Judgment.

8. Pursuant to the Settlement Agreement, the Class Representatives and Settlement Class Members forever release, discharge, and covenant not to sue the Released Parties regarding any of the Released Claims. With respect to all Released Claims, the Class Representatives and the Settlement Class Members expressly waive and relinquish the Released Claims to the fullest extent permitted by law. These releases apply even if the Class Representatives or Settlement Class Members subsequently discover facts in addition to or different from those which they now know or believe to be true.

9. A list of Settlement Class Members who have timely elected to opt out of the Settlement Class, and who therefore are not bound by the settlement or this Final Order and Judgment, is attached to this Final Order and Judgment as **Exhibit A**. All other members of the Settlement Class shall be subject to all of the provisions of the Settlement Agreement and this Final Order and Judgment.

10. The Court adjudges that the payment of attorneys' fees in the amount of \$5.5 million and expenses of \$278,329.80 to Class Counsel, and the payment of a Service Award to the five Class Representatives of \$5,000 each is fair, reasonable and adequate, and shall be paid to Class Counsel pursuant to the terms of the Settlement Agreement. Co-Lead Counsel shall distribute the Service Awards to each of the Class Representatives. Co-Lead Counsel shall also

distribute the attorneys' fees and expenses between or among Class Counsel, as Co-Lead Counsel shall determine based on Class Counsel's relative substantive contributions to the prosecution and settlement of this Class Action.

11. The Settlement Agreement releases and discharges the Released Parties for Released Claims, and the Court adopts and approves the release language set forth in paragraphs 96-103 of the Settlement Agreement.

12. Without in any way affecting the finality of this Final Order and Judgment, the Court has and shall retain exclusive jurisdiction over: (i) the Settlement Agreement, including its administration, consummation, claim procedures, enforcement, and any other issues or questions that may arise; (ii) the Settling Parties and disputes for purposes of the Settlement Agreement; and (iii) all proceedings related to the Settlement Agreement including after Final Approval is entered and is no longer subject to appeal, and over enforcement of the Final Order and Judgment.


13. The Court retains jurisdiction to enter any orders necessary or appropriate in implementing the Settlement Agreement, including but not limited to orders enjoining Settlement Class Members from prosecuting Released Claims. Consistent with the Settlement Agreement, it is further ordered that Settlement Class Members are permanently enjoined and forever barred from initiating, commencing, maintaining, asserting, continuing, and/or prosecuting any Released Claims against any of the Released Parties in any federal or state court in the United States or any other tribunal.

14. In accordance with the Full Faith and Credit Clause of the United States Constitution and the doctrine of comity, the Court requests that any court or other tribunal in any

other jurisdiction reviewing, construing, or applying this Final Order and Judgment implement and enforce its terms in their entirety.

15. All outstanding motions, other than those resolved in this Final Order and Judgment, are hereby denied as moot. The Clerk of Court is directed to close this docket.

It is so **ORDERED**.



WILLIAM L. CAMPBELL, JR.
UNITED STATES DISTRICT JUDGE

Exhibit A

Sole Exclusions to the Settlement Class

1. Philadelphia Indemnity Insurance Company a/s/o Heritage Oaks Condominium Association, Inc. with claimed damages of \$92,705.14.
2. Vigilant Insurance Company a/s/o Dr. Manjit Wadhwa with claimed damages of \$466,453.00.
3. Chubb Lloyds Insurance Company of Texas a/s/o Naresh and Surabhi Mahajan with claimed damages of \$237,776.95.
4. Carol L. Michel of Luling, Louisiana with claimed damages estimated to exceed \$75,000.²

² State Farm Fire and Casualty Company (“State Farm”) originally also requested exclusion as subrogee for Carol L. Michel, but subsequently rescinded that request for exclusion, which the Court accepts. Accordingly, Ms. Michel is only excluded from the Settlement Agreement for any uninsured losses. State Farm is a Settlement Class Member as subrogee of Ms. Michel for amounts State Farm pays to Ms. Michel with respect to her claimed loss.