

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

STEVEN AND JOANNA CONE, et. al.	§	Civil Action File No.
on Behalf of Themselves and Those	§	
Similarly Situated ¹	§	4:17-cv-00001-ALM-KPJ
<i>Plaintiffs</i>	§	
	§	
v.	§	
	§	
PORCELANA CORONA DE MÉXICO,	§	JOINT NOTICE OF SETTLEMENT
S.A. DE C.V f/k/a SANITARIOS LAMOSA	§	AND REQUEST FOR ENTRY OF
S.A. DE C.V., a/k/a VORTENS, INC.	§	MANAGEMENT DEADLINES
<i>Defendants.</i>	§	

**JOINT NOTICE OF SETTLEMENT AND REQUEST FOR ENTRY OF CASE
MANAGEMENT DEADLINES**

NOW COME Plaintiffs MARK AND AMBER FESSLER, ANDREW HOCKER, MATTHEW CARRERAS, AARON AND STACEY STONE, and DANIEL AND SHARON SOUSA on behalf of Themselves and Those Similarly Situated, and Defendant Porcelana Corona de Mexico, S.A. de C.V. f/k/a Sanitarios Lamosa S.A. de C.V. a/k/a Vortens (“Porcelana”) and, hereby submit their JOINT NOTICE OF SETTLEMENT in the above-noted matter, and in consideration of same request this Honorable Court enter an Order as to the following Case Management Deadlines.

¹ Steven and Joanna Cone settled their individual claims and were dismissed from this action. Additionally, other plaintiffs and claims were severed from the instant action for purposes of seeking and obtaining Final Approval of the 2011 Settlement Class certified under Rule 23(b)(2) and (b)(3) [Dkt.229]. A request was subsequently made to the Federal District Court Clerk per instruction by the Court as to the alteration of the style of the case to reflect solely the remaining Named Plaintiffs, Individually and on behalf of similarly situated parties; however, the Clerk’s Office indicated a need for continuity for the case style.

I. NOTICE OF SETTLEMENT

This Court GRANTED IN PART and DENIED IN PART Plaintiffs' Second Motion for Class Certification (Dkt. 194) in its September 4, 2019 Order and Report and Recommendation. (Dkt. 247). After consideration of the objections asserted by Defendant, Judge Amos Mazzant entered an Order and Memorandum Adopting the Report and Recommendation on September 26, 2019. (Dkt. 250). The emphasis of the certification order and scope of the defined class is that of warranty interpretation and available remedy under equitable terms.

The Parties have reached an agreement as to the material terms of a Settlement commensurate with the scope of the Certification Order (Dkts. 247; 250). Such Settlement addresses the individual claims of the Named Plaintiffs as well as the claims of the Rule 23(b)(2) class certified and defined as follows:

All Texas owners of Vortens toilet tank models #3464 and #3412 manufactured at the Benito Juarez plant, with a manufacturing date 2007-2010.

(Dkt.247). As such, approval of the Settlement Agreement will result in resolution of all claims in this lawsuit.

The Parties are cooperatively drafting final settlement documents outlining the formal terms of the Agreement. A true and correct copy of the Memorandum of Understanding outlining the materials terms of the agreement is attached to this Notice for the Court's initial consideration. See EXHIBIT A.

II. PROPOSED CASE MANAGEMENT ORDER

The certification order and corresponding settlement fall under the purview of Federal Rules of Civil Procedure 23(b)(2). The anticipated Joint Motion for Preliminary Approval will provide the argument and evidence in support of settlement approval, but for purposes of entry of

final deadlines the Parties respectfully request a schedule that considers the notice requirements of a declaratory and injunctive relief class. Such deadlines include, but are not limited to:

Event	Time of Compliance
Deadline to file Joint Motion for Preliminary Approval ²	December 10, 2019
Deadline for CAFA Notice	10 days after entry of the Preliminary Approval Order
Deadline for Mailing of Class Notice and Posting Class Notice to Website	30 days after entry of the Preliminary Approval Order
Deadline for Filing Motion for Final Approval, Attorneys' Fees and Expenses, and Service Awards for Plaintiffs	45 days prior to the Proposed Fairness Hearing
Deadline for the Settlement Class to Comment upon or Object to the Proposed Settlement	28 days prior to the Proposed Fairness Hearing
Deadline for Filing All Final Papers in Support of Motion for Final Approval, Attorneys' Fees and Expenses, and Service Awards for Plaintiffs, and for the Parties to Respond to Any Comments or Objections	10 days prior to the Proposed Fairness Hearing
Proposed Fairness Hearing	75 days after entry of the Preliminary Approval Order

The Parties are contemporaneously submitting their proposed Order regarding the final deadlines in this matter utilizing the dates outlined above. *See* EXHIBIT B.

² The Parties anticipate requesting entry of an Order granting Preliminary Approval without the need for oral argument or separate hearing setting.

Respectfully submitted,

/s/ N. Scott Carpenter

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

I certify that counsel for the respective parties AGREE as to the joint submission of this Notice.

/s/ Rebecca Bell-Stanton
REBECCA BELL-STANTON

CERTIFICATE OF SERVICE

I certify that on the 21st day of November, 2019 that the foregoing was served to all counsel of record either by hand delivery, U.S. Mail, postage pre-paid, facsimile, electronically, and/or *via* the Court's CM/ECF document filing system.

/s/ Rebecca Bell-Stanton
REBECCA BELL-STANTON