

If you are a Texas owner of a 2007-2010 Vortens™ Brand Toilet Tank You Could Get Benefits from a Class Action Settlement

This notice may affect your rights. Please read it carefully.

- A settlement has been reached with Porcelana Corona De Mexico, S.A. de C.V. f/k/a/ Sanitarios Lamosa S.A. de C.V. a/k/a Vortens™ (“Vortens”) regarding certain designated ceramic toilet tanks bearing Model #3464 or #3412 (“Affected Toilet Tanks”) markings, manufactured by Vortens at the Benito Juarez plant between January 1, 2007 and December 31, 2010. The settlement provides extended warranty benefits to Texas owners of an Affected Toilet Tank, including review of prior denied warranty claims as a result of the fracture of an Affected Toilet Tank.
- Below are example images of the interior tank markings indicating membership in this Settlement Class:



Example Imprint 4-digit Model Number



3-digit Plant Designation must begin with “5”

- This settlement provides a program extending warranty protections to Texas owners of Affected Tanks. The settlement (1) extends the warranty period for Affected Tanks until December 31, 2020; (2) establishes an audit of previously denied Affected Tank warranty claims; (3) permits submission of new warranty claims of Affected Tanks for prior fractures; and (4) provides reimbursement upon sufficient document proof for replacement expenses incurred as a result of a past fracture not to exceed \$300.¹
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM	The only way to get a reimbursement payment from this settlement.
OBJECT	Write to the Court about why you do not like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Get no reimbursement payment for a prior fracture. The warranty extension for a future fracture will expire on December 31, 2020.

- These rights and options and the deadlines to exercise them are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. If it does, cash benefits will be distributed to those who file a valid and timely Claim Form after final approval by the Court and resolution of any appeals. Please be patient. It is expected that the approval process will take several months.

¹ Documentary proof of replacement expenses includes records such as receipts, invoices, insurance claim records, and/or sufficient banking/credit purchase or expenditure documentation.

Questions? Call 1-833-991-1524 or visit www.VortensSettlement.com/cone

BASIC INFORMATION

1. Why is this notice being provided?

A Court authorized this notice because you have a right to know about a proposed settlement of this Class Action lawsuit and to know your options before the Court decides whether to give final approval to the settlement. This notice explains the lawsuit, the settlement, your rights, what benefits are available, who may be eligible for those benefits, and how to get them.

The Honorable District Judge Amos Mazzant and the Honorable Magistrate Judge Kimberly Priest-Johnson of the United States District Court for the Eastern District of Texas are overseeing this Class Action. The settlement resolves the case *Cone v. Vortens*, Case No. 4:17-cv-0001, which claimed that certain Vortens Tanks were defectively manufactured. The people who sued are called the “Plaintiffs”, and the company being sued, *Porcelana Corona*, (“Vortens™”) is the “Defendant.”

2. What is this lawsuit about?

The lawsuit claims that Vortens™:

- Manufactured and sold defectively manufactured toilet tanks,
- Knew of the defective condition of the toilet tanks, and
- Failed to provide warnings notifying the public about the defect.

The lawsuit claims that Vortens™ actions lead to the failure of the Affected Toilet Tanks.

Vortens™ denies all the claims and allegations in the lawsuit. Vortens™ maintains that the Toilet Tanks are not defective in any respect, that the failure rate is very low and that any failures are the result of other factors (such as improper installation or misuse). Vortens™ has successfully defended itself on these grounds in the past.

3. Why is this a Class Action?

In a Class Action, one or more people called “Class Representatives” (in this case Aaron and Stacey Stone and Daniel and Sharon Sousa) sue on behalf of all people who have similar claims. All of these people are the “Settlement Class Members.” One court resolves the issues for all Settlement Class Members.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Vortens™. Instead, both sides agreed to settle this case to avoid the cost and risk of a trial. The settlement does not mean that any law was broken or that Vortens™ did anything wrong. Vortens™ denies all claims and allegations in this case. The Class Representatives and their lawyers think the settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT

To see if you will be affected by the settlement or if you can get a payment from it, you need to decide if you are a Settlement Class Member.

5. Am I part of the settlement?

The Settlement includes Texas owners of one or more Affected Toilet Tank(s). This Settlement provides extended warranty benefits to Texas owners after failure, if any, of an Affected Toilet Tank.

The Settlement Class, as approved by the Court, is formally defined as follows:

Questions? Call 1-833-991-1524 or visit www.VortensSettlement.com/cone

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

6. How do I know if I have a Vortens™ Toilet Tank Model #3464 or #3412 made at the Benito Juarez plant between 2007-2010?

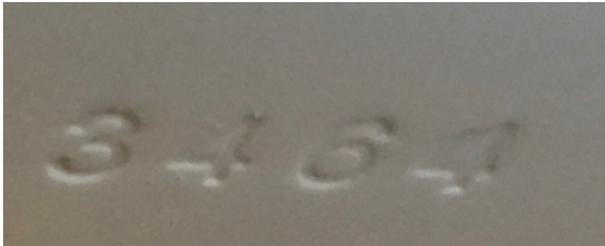
The following can help you identify whether you may have a Toilet Tank covered by this settlement:

- A Vortens™ stamp is shown on the inside of the tank (see photos below)
- The numbers 3464 or 3412 are stamped on the inside of the tank (see photos below)
- The date of manufacture is stamped or imprinted on the inside of the tank (see photo below)
- A 3-digit code starting with a “5” is stamped or imprinted on the inside of the tank (see photo below)

These photos show the interior of the tank with the Vortens™ stamp:



All model numbers for the Affected Toilet Tanks will consist of **four digits and be either 3412 or 3464**. The photos below are examples showing model numbers 3412 and 3464 stamped on the inside of the tank:



All Affected Toilet Tanks will also include markings showing the 3-digit plant code (which must begin with a “5”) for the Benito Juarez plant. The photos below are examples of a plant code:



These photos are examples showing a date of manufacture within the correct timeframe:



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7. Are there exceptions to being included in the settlement?

Yes. The following are *not* included in the settlement:

- Anyone who previously resolved their Affected Toilet Tank claims through settlement or with payment by Vortens™;
- Vortens™ and their affiliates;
- Persons who previously made claims for injury or property damage, including subrogated carriers; and
- The presiding judges and their immediate families.

8. What if I am not sure whether I am included in the settlement?

If you are not sure whether you are in the Settlement Class or have any other questions about the settlement, call 1-833-991-1524 or visit www.VortensSettlement.com/cone. Or you may write to *Cone v. Vortens*, Claims Administrator, P.O. Box 4290, Portland, OR 97208- 4290.

9. Who can file a claim under the settlement?

To be eligible to file a claim for a payment under the settlement, a Settlement Class Member must own an Affected Toilet Tank.

SETTLEMENT BENEFITS – WHAT YOU GET IF YOU QUALIFY

10. What are the benefits of the settlement?

Under this settlement:

1. Vortens™ guarantees to Texas owners that tank models 3464 and 3412 manufactured at the Benito Juarez Plant between January 1, 2007 and December 31, 2010 are free of manufacturing defects or ceramic defects.
2. Vortens™ extends warranty protections to the Class Members up through and including December 31, 2020.
3. Class Members may submit a warranty claim (or resubmit a previously denied warranty claim) for a **past** fracture of a tank under the following terms and entitlements:
 - a. Proof of ownership of a class tank;²
 - b. Submission of receipts or other documentary proof of replacement costs to be entitled to reimbursement;³
 - c. Class members are entitled to recover product replacement costs (product and installation only) and reimbursement is capped at \$300 per tank/toilet.
4. Class members experiencing a fracture event of an eligible tank between the date of Settlement Notice and December 31, 2020 are entitled to replacement at no cost to the Class Member, as follows:

² Documentary proof of ownership may include home purchase documents, installer records, builder records, deed information and qualifying photographs demonstrating proof of tank ownership.

³ Documentary proof of expenses includes records such as receipts, invoices, insurance claim records, and/or sufficient banking/credit purchase or expenditure documentation.

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- a. Upon proof of fracture, Porcelana shall provide replacement tank product compatible with the particular toilet basin to be picked up by the claimant from a location no farther than 30 miles from the owner's residence at no cost to the class member. In the event a compatible replacement tank product is available but outside of the designated geographic area, the Class Member is entitled to warranty relief in the form of a single payment of \$35.00 for replacement of the fractured tank.
- b. Upon proof of fracture and in the event the entire toilet must be replaced due to incompatibility of current Porcelana tank product and the original basin, an eligible class member is entitled to reimbursement of incurred replacement expenses not to exceed \$300. Class members must submit receipts or other documentary proof of replacement costs to be entitled to reimbursement, as well as an explanation of why there was no compatible tank available.

The Claims Administrator will review claims to determine whether they are eligible and timely and pay the claims.

HOW TO GET A PAYMENT

11. What do I need to do to participate in the settlement?

Follow the instructions on the Claim Form to receive a payment under this settlement. All Claim Forms must be submitted along with any necessary supporting documentation or information. Claims may be submitted online or mailed by first-class United States Mail, postage prepaid, to the Claims Administrator: *Cone v. Vortens*, Claims Administrator, P.O. Box 4290, Portland, OR 97208-4290.

You cannot submit your Claim Form and accompanying materials by telephone. If you change your address and want to receive a Claim Form or any payment owed to you at your new address, you should notify the Claims Administrator of your new address by sending written notice of your change of address to the Claims Administrator at the address above.

Claim Forms are available online at www.VortensSettlement.com/cone or by calling 1-833-991-1524. Or you may request one by writing to *Cone v. Vortens*, Claims Administrator, P.O. Box 4290, Portland, OR 97208-4290.

12. How will the claims process work?

Validation of Claims for Benefits. The Claims Administrator will begin reviewing all timely Claim Forms after the final approval of the settlement. The Claims Administrator will evaluate your claim based on all the information and documentation you provided.

Denial of Claims for Benefit. If your Claim Form and accompanying materials do not meet all of the requirements of the Settlement, the Claims Administrator will deny your claim as "invalid"; you will not receive any payment, and you will be informed in writing of that decision.

Payment of Validated Claims for Benefits. If you submit a Claim Form and the Claims Administrator determines that your Claim Form and the accompanying materials are valid, the Claims Administrator will send you a payment.

No Payment Until After Appeals Are Resolved. The Claims Administrator will not make any payments to Settlement Class Members until the Court grants final approval of the Settlement and until any appeals are resolved. During the appeals process, the Claims Administrator will continue to accept claims.

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13. What am I giving up to get a payment?

If the settlement becomes final, Class Members are “releasing” Vortens™ from all of the Released Claims as described in the Settlement Agreement. This means you will no longer be able to sue Vortens™ regarding any of the claims described in the Settlement Agreement.

The Settlement Agreement is available at www.VortensSettlement.com/cone. The Settlement Agreement provides more detail regarding the release and describes the Released Claims with specific descriptions in necessary, accurate, legal terminology, so read it carefully. You can talk to the law firms representing the Settlement Class listed in the section “The Lawyers Representing You” for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the Released Claims or what they mean.

14. Do I have a lawyer in this case?

The Court named N. Scott Carpenter and Rebecca Bell-Stanton from the law firm of Carpenter & Schumacher, P.C. as Lead Class Counsel. Below is the address for Class Counsel:

N. Scott Carpenter
Rebecca Bell-Stanton
CARPENTER & SCHUMACHER, P.C.
Parkway Center IV
2701 Dallas Parkway, Suite 570
Plano, TX 75093

You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

15. How will the administrative costs and attorneys’ fees be paid?

Vortens™ agreed to pay the costs of class notice and claims administration, including the costs of mailing this notice and distributing any payments owed to Settlement Class Members under the settlement. If the Settlement is approved by the Court, Class Counsel will ask the Court for reasonable attorneys’ fees and reimbursement of litigation costs. Also, Class Counsel will ask the Court for a Service Award of \$7,500 to each Class Representative for their effort, service, time, and expenses.

16. How do I tell the Court if I do not like the settlement?

You may object to the certification of the Settlement Class, to the terms of the proposed settlement, or to Class Counsel’s request for attorneys’ fees, expenses or Service Awards.

To do so, you (or your own attorney) must provide your objection in writing by first class mail to Magistrate Judge Kimberly C. Priest-Johnson, United States District Court, 7940 Preston Road, Suite 110, Plano, TX 75024 and postmarked no later than **February 14, 2020** with the following information:

1. The name of this lawsuit, *Cone, et al. v. Vortens*, Case No. 4:17-cv-00001;
2. Your full name, current address, and telephone number;
3. Whether, on the date of your written objection, you own a residence or structure (or formerly owned a residence or structure) containing an Affected Toilet Tank;
4. The address of the property(ies) that may contain or have contained the Affected Toilet Tank(s);

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5. If it exists, proof that your residence or structure contains an Affected Toilet Tank (in the form of photographs of the manufacturing date stamp and the four-digit tank model number, photographs of a bar code label, if any, installation records, receipts, etc.);
6. The nature of the objection, the facts underlying it, and any legal authority supporting it, and confirm you intend to appear at the Final Fairness Hearing in accordance with the amended Rule 23;
7. In order to most effectively explain the nature of his or her objection, the Settlement Class Member should, but is not required to, include all evidence and supporting papers (including, but not limited to, all briefs, written evidence, and declarations) that you want the Court to consider in support of the objection;
8. Your signature (even if represented by an attorney) and the date on which you signed it; and
9. Your attorney's signature (if you are represented by counsel).

If you want to appear at the Fairness Hearing, on your own behalf (or through your own attorney), and speak in court, you should file a Notice of Appearance with the Court and the Claims Administrator no later than **February 14, 2020**. This notice should list (in detail) the subjects you will talk about.

If you do not file your objection on time and include the information above, you may lose the opportunity to have your objection considered at the Fairness Hearing. You will also not be able to object or appeal any of the Court's decisions in connection with the settlement.

17. When and where will the Court decide whether to approve the Settlement?

On March 2, 2020, at 9:00 a.m., the Court will hold a public hearing at the Paul Brown United States Courthouse, 101 E. Pecan Street, Sherman, Texas 75090. The Court will decide whether the settlement is fair, adequate, and reasonable and should be finally approved. The Court will also consider Class Counsel's request for attorneys' fees and expense reimbursement and any objections. This hearing may be delayed or rescheduled by the Court without further notice to the Settlement Class. Class Members who object to the settlement are required to attend the Fairness Hearing. If you want to speak in Court to object to the settlement, either personally or through your own attorney, you should notify the Court of your intention to appear at the Fairness Hearing (see Question 16).

18. Do I have to attend the Fairness Hearing?

Class Counsel will answer any questions the Court may have regarding the settlement. However, if you send in a written objection, you must attend the Fairness Hearing to discuss your objection at your own expense. If you mailed your written objection on time, the Court will consider it.

19. How do I get more information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can view a copy of the Settlement Agreement at www.VortensSettlement.com/cone. You may also write with questions to Vortens™ Claims Administrator, P.O. Box 4290, Portland, OR 97208- 4290. You can get a Claim Form at the website or have a Claim Form mailed to you by calling 1-833-991-1524. If you have questions for Class Counsel, you may contact them at the address listed above in Question 14. You may also get advice and guidance from your own private attorney at your own expense.

Please do not write or telephone the Court, Vortens™, Porcelana or any Porcelana sales representative or agent for information about the settlement or this lawsuit.

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