

KIMBERLY COLE, et al, on behalf of themselves and all others similarly situated, Plaintiffs, vs. NIBCO, Inc., Defendant



THIS WEBSITE WILL BE UPDATED REGULARLY. PLEASE BE SURE TO CHECK BACK FREQUENTLY FOR IMPORTANT DATES AND ADDITIONAL INFORMATION REGARDING THIS SETTLEMENT.

You may be entitled to benefits from a class action settlement if: (a) you have owned or occupied at any time since January 1, 2005, a residential or commercial structure in the United States that contains or contained NIBCO's Pex Tubing, Fittings or Clamps and have unreimbursed costs or damages resulting from water leaking from one of these products, or (b) you have repaired or paid to repair damage resulting from water leaking from one of these products in one of these structures.

A proposed settlement has been preliminarily approved by the Court in a class action lawsuit about whether NIBCO, Inc. manufactured and sold defective Tubing, Fittings and Clamps (the "Covered Products").

- **Tubing:** PEX tubing manufactured or sold by NIBCO in the United States using (or labeled by NIBCO as using) its 1006 formulation and used in residential or commercial structures, including NIBCO NEXT-Pure Tubing, NIBCO DURA-PEX Tubing, and NIBCO. The Tubing was manufactured until 2012.
- **Fittings:** ASTM F1807 yellow brass fittings manufactured or sold by NIBCO in the United States for use in PEX applications and used in residential or commercial structures. NIBCO stopped manufacturing this product in 2015, though the significant majority had been manufactured and sold by the end of 2012.
- **Clamps:** Stainless steel clamps manufactured or sold by NIBCO in the United States for use in PEX applications and used in residential or commercial structures. NIBCO stopped manufacturing this product in 2015, though the significant majority had been manufactured and sold by the end of 2012.

Who's included in the Settlement Class? The term "Settlement Class" is defined in the Settlement Agreement as:

All Persons that own or have owned at any time since January 1, 2005, a residential or commercial structure in the United States that contains or contained NIBCO's Tubing, Fittings, or Clamps, including their spouses, joint owners, heirs, executors, administrators,

mortgagees, tenants, creditors, lenders, predecessors, successors, trusts and trustees, and assigns (“Occupant Persons”); as well as all Persons who have standing and are entitled to assert a claim on behalf of any such Occupant Persons, such as but not limited to a builder, contractor, distributor, seller, subrogated insurance carrier, or other Person who has claims for contribution, indemnity or otherwise against NIBCO based on claims for Qualifying Leaks of the Tubing, Fittings, or Clamps with respect to such residential or commercial structures. The Settlement Class includes all Persons who subsequently purchase or otherwise obtain an interest in a property covered by this Settlement without the need of a formal assignment by contract or court order.

Excluded from the Settlement Class are Occupant Persons with respect to residential structures constructed by D.R. Horton, Inc.-Birmingham (including, but not limited to, those for which the plumbing contracting was performed by or on behalf of Dupree Plumbing Co. Inc.) and which are located in the following cities in Alabama: Bella Vista; Bessemer; Birmingham; Calera; Chelsea; Cottondale; Hoover; Kimberly; Leeds; Maylene; McCalla; Montgomery; Northport; Odenville; Pinson; Prattville; Springville; Trussville; and Tuscaloosa. Also excluded from the Settlement Class are Occupant Persons with respect to residential structures constructed by Continental Homes of Texas, L.P. (including, but not limited to, those for which the plumbing contracting was performed by or on behalf of Christianson Air Conditioning and Plumbing, LLC) and which are located in the following cities in Texas: Boerne; Cibolo; Converse; Live Oak; Medina County; New Braunfels; Royse City; San Antonio; San Marcos; Schertz; Sequin; and Universal City. A list of such residential structures in Alabama and Texas covered by this exclusion will be provided to the Settlement Administrator and made available on the Settlement Website. Also excluded from the Settlement Class are D.R. Horton, Inc.-Birmingham, Dupree Plumbing Co. Inc., Continental Homes of Texas, L.P., and Christianson Air Conditioning and Plumbing, LLC, solely with respect to the structures identified in that list.

Also excluded from the Settlement Class are: (i) NIBCO, its officers, directors, affiliates, legal representatives, employees, successors, and assigns, and entities in which NIBCO has a controlling interest; (ii) judges presiding over the Litigation; and (iii) local, municipal, state, and federal governmental entities.

What benefits does the Settlement provide? A Settlement Fund of up to \$43.5 million will be established that will provide benefits to Settlement Class Members, pay attorneys’ fees and costs, settlement administration costs, and any service awards to the named plaintiffs. Payments to eligible Settlement Class Members who submit a valid and timely Claim Form may include:

- Payment for Past Property Damage Claims for Qualifying Leaks that occurred between January 1, 2005 and May 16th, 2019 (the Effective Date) are eligible for a payment between 25% and 70% of their Reasonably Proven Property Damage.

- Payment for Future Property Damage Claims for Qualifying Leaks that occur during the Claim Period (after May 16th, 2019 (the Effective Date)) are eligible for a payment of between 25% and 70% of their Reasonably Proven Property Damage.
- An optional re-plumb payment covering between 25% and 70% of the cost for those who demonstrate three (3) or more Qualifying Leaks, each one occurring at a separate time after repair and in such a manner that re-plumbing all or part of the structure would mitigate future events.

How do I receive Settlement benefits? You must submit a valid and timely Claim Form to the Settlement Administrator. Your Claim Form and supporting documentation may be submitted:

1. online through the [claim portal](#) located on this website;
2. by email to the Settlement Administrator using the email address info@pexsystemsettlement.com ; or
3. by U.S. Mail to the Settlement Administrator using the address: PEX System Settlement, Attn: CLAIMS, PO Box 58086, Philadelphia, PA 19102.

Claim Forms are available for download through this website ([click here](#)) and are also available by email or by writing to the Settlement Administrator using the information above.

If the Qualifying Leak occurred between January 1, 2005 and May 16th, 2019 (the Effective Date), the deadline for submitting a Claim Form is October 13, 2019 (150 days after the Effective Date). If the Qualifying Leak occurs during the Claim Period and after May 16th, 2019 (the Effective Date), the deadline for submitting a Claim Form is 150 days after the Qualifying Leak occurs. If three (3) or more Qualifying Leaks are experienced, the deadline for submitting a re-plumb claim is October 13, 2019, (150 days after the Effective Date) if the leaks were experienced before May 16th, 2019 (the Effective Date) or 150 days after the third Qualifying Leak occurs if such third leak occurs after May 16th, 2019 (the Effective Date). The Claim Form is available on this website.

Who represents me? The Court appointed Berger Montague PC and Sauder Schelkopf LLC as Co-Lead Class Counsel to represent the Settlement Class. You do not have to pay Class Counsel. If you wish to be represented by your own lawyer, you may hire one at your own expense. The contact information for Co-Lead Class Counsel is set forth below:

Shanon J. Carson
 Lawrence Deutsch
 Jacob M. Polakoff
 Berger Montague PC
 1818 Market Street, Suite 3600
 Philadelphia, PA 19103
 Telephone: (215) 875-3070
 Email: nibco@bm.net

Joseph G. Sauder
Matthew D. Schelkopf
Joseph B. Kenney
Sauder Schelkopf LLC
555 Lancaster Avenue
Berwyn, PA 19312
Telephone: (888) 711-9975
Email: jbk@sstrial lawyers.com

Your options. If you are included in the Settlement Class and do not submit a Claim Form, your rights will be affected and you will not receive any payment from this Settlement. If you do not want to be legally bound by the Settlement, you must exclude yourself or you won't be able to sue, or continue to sue, NIBCO about the legal claims resolved by the Settlement. [Click here](#) for instructions explaining how to exclude yourself from the Settlement. The deadline date for filing an exclusion is February 27, 2019.

If you do not exclude yourself, you may object to the Settlement by submitting a written objection. [Click here](#) for instructions explaining how to object to the settlement. The deadline date for submitting an objection is February 27, 2019.

The Final Approval Hearing. The Court will hold a Final Approval Hearing on April 8, 2019 at 10:00 AM to decide whether to approve the Settlement.

If you would like more Information about this settlement, please call 1-855-649-5968 or email the Settlement Administrator at info@PexSystemSettlement.com.

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