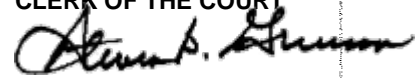


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11
12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 IN RE: ASPEN SERIES BB EVAPORATOR
COIL LITIGATION

Case No.: A-14-710463-D
Dept. No. XVI

15 **Order Granting Joint Motion for Preliminary**
16 **Approval of Settlement and Related Relief on**
Order Shortening Time

17 THIS MATTER having come before the Court at 10:00 a.m. on August 9, 2017, on an Order
18 Shortening Time entered on August 4, 2017, with Scott Canepa, Esq. of Canepa Riedy Abele and J.
19 Randall Jones, Esq. and Michael J. Gayan, Esq. of Kemp, Jones & Coulthard, LLP appearing on behalf
20 of Class Plaintiffs, Philip Goodhart, Esq. and Sean D. Cooney, Esq. of Thorndal Armstrong Delk
21 Balkenbush & Eisinger, Paul D. Ballou, Esq. of Lincoln Gustafson & Cercos, LLP, Theodore Parker,
22 III, Esq. and Casey D. Gish, Esq. of Parker, Nelson & Associates, Chtd., and Daniel M. Glassman, Esq.
23 of Crowell & Moring, LLP appearing on behalf of Defendant Aspen Manufacturing Holdings, Inc. fka
24 Aspen Manufacturing, Inc. ("Aspen"), on the parties' Joint Motion for Preliminary and Final Approval
25 of Settlement and Related Matters on Order Shortening Time. The Court having reviewed and

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1 considered the parties' moving papers, including the Joint Motion and the Errata thereto, and having
2 heard the arguments of counsel, with good cause appearing for the reasons stated on the record and there
3 being no just reason for delay:

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, based on all of the reasons
5 referenced in the Court's original class certification order entered on May 21, 2015, and pursuant to
6 NRCP 23(b)(3), a settlement class is hereby certified on behalf of any owner of a residential property in
7 the State of Nevada that contains or contained Aspen Series BB evaporator coils as part of the home air
8 conditioning system who did not opt out of the Class and who did not previously assign or release their
9 claims against Aspen. The Court appoints the existing class representatives, Lisa Lee and Terence
10 Moniz, as the class representatives for this settlement class and finds them adequate to serve in this
11 capacity for all the reasons stated in the Court's original class certification order entered on May 21,
12 2015. For the reasons stated on the record, only the new class members—those who removed and
13 replaced, at the class member's expense, the Aspen Series BB evaporator coil units from their homes
14 before May 21, 2015—may opt out of the settlement at this time.

15 IT IS FURTHER ORDERED that the settlement, as set forth in the Joint Motion and summarized
16 below, is hereby preliminarily approved as being fair and adequate pursuant to NRCP 23, and an award
17 of Class Counsel's attorney's fees in the amount of 35% of the total settlement payment (\$15,750,000)
18 and reimbursement of Class Counsel's costs from the settlement in an amount not to exceed \$875,000
19 are hereby preliminarily approved as fair and reasonable along with a \$10,000 per-home service award
20 payment to the class representatives (totaling \$10,000) to be paid from the settlement fund. The material
21 terms of the settlement are as follow: (1) Aspen and/or its insurers will pay \$45,000,000 to Class
22 Plaintiffs to settle the class claims against them; (2) the settlement payment shall be made to Class
23 Counsel within five (5) days of the Effective Date, as defined in the Agreement; (3) in exchange for the
24 settlement payment, the parties have agreed to mutually release one another for all claims related to the
25 Aspen Series BB units in the class homes; (4) any subrogation claims related to the Aspen Series BB

1 units must be made against the settlement fund, not Aspen, and such claims will be capped at the
2 respective class member's pro rata share of the settlement funds; (5) Aspen disclaims any right to direct,
3 control, or comment on how the settlement funds will be disbursed, including but not limited to any
4 reversionary interests and Class Plaintiffs' requests for attorney's fees, reimbursement of costs, and class
5 representative service awards; and (6) if more than 600 class members timely submit valid opt-out
6 requests, Aspen may elect to terminate the settlement.

7 IT IS FURTHER ORDERED that notice of preliminary approval of the settlement, in
8 substantially the same form as attached to the Joint Motion, shall be provided in a manner consistent
9 with the parties' proposal in the Joint Motion and as described on the record at the hearing of this matter.

10 IT IS FURTHER ORDERED that Class Plaintiffs shall file any motion for final approval of the
11 requested attorney's fee award, reimbursement of costs, and class representative service awards by no
12 later than October 9, 2017. Defendants shall file any motion for good faith settlement determination
13 pursuant to NRS 17.225, et seq. by no later than October 9, 2017.



14 IT IS FURTHER ORDERED that the class members must ensure Class Counsel receives any
15 written objections to the settlement, opt-out requests, and requests to appear at the final fairness hearing
16 by no later than October 23, 2017. Class Counsel shall file any objections, opt-outs, and/or requests to
17 appear as soon as practicable after their receipt.

18 IT IS FURTHER ORDERED that, pursuant to NRCP 23, the Court has scheduled a Final
19 Fairness Hearing to take place on November 1, 2017, at 10:00 a.m., at which time the Court will
20 determine the fairness, reasonableness, and adequacy of the proposed settlement, and the good faith of
21 the proposed settlement. The Final Fairness Hearing will be held at the Clark County District Court,
22 Regional Justice Center, 200 Lewis Avenue, Department 16, Courtroom 12D, Las Vegas, Nevada.

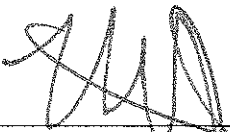
23 IT IS FURTHER ORDERED that this action is stayed up through and until the Final Fairness
24 Hearing.

1 IT IS FURTHER ORDERED that Total Class Solutions, LLC is preliminarily approved as the
2 notice and claims administrator and shall carry out the notice obligations provided for in this order.

3 DATED: August ~~14~~ 2017.

4
5 
6 Judge Timothy C. Williams 

7 Respectfully submitted by:

8 
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