



## ROOFING LITIGATION SETTLEMENT

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### Frequently Asked Questions

#### CEMWOOD SHAKES

##### What are Cemwood Shakes?

The litigation involves American Cemwood's manufacture and sale of roofing shakes that are composed of approximately 2/3 Portland cement and 1/3 wood fiber. They were marketed under various brand names including, among others, Cemwood Shakes, Permatek Shakes, Permatek II Shakes, Royal Shakes, Cascade Shakes, Trieste Tile, and Pacific Slate (collectively, "Cemwood Shakes").

Some Cemwood Shakes are identified by the capital letters "AC" embossed on the upper front portion of each shake. Some Permatek Shakes are embossed with the name "Permatek." Some Permatek II shakes are embossed with a letter "P." Some Trieste Tiles are embossed with a letter "T." American Cemwood stopped manufacturing the Cemwood Shakes on April 8, 1998. The company has also stopped doing business.

#### ELIGIBLE CLASS MEMBERS

##### Who is eligible to participate in the lawsuit?

All individuals and entities that have owned, own, or acquire property on which Cemwood Shakes are or have been installed, in the following states: Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin and Wyoming.

[This litigation does NOT include property in the state of Colorado. Claims about personal injury and emotional distress are not affected by this case.](#)

Cemwood Shakes are defined as all cement and wood fiber composite roofing tiles and shakes manufactured by Cemwood including, but not limited to: Cemwood Shakes, Permatek Shakes, Permatek II Shakes, Cascade Shakes, Royal Shakes, Trieste Tile; and Pacific Slate.

#### REASON FOR LITIGATION

##### What is the lawsuit about?

Plaintiffs allege that Defendants failed to design, manufacture and test the Cemwood Shakes adequately before selling them as durable and suitable roofing products. As a result, Plaintiffs and the Class have experienced continuous and progressive damage to their property. Defendants have denied and continue to deny each and every allegation.

#### STATUS OF LITIGATION

##### What is the current status of the lawsuit?

On November 18, 2003, the Court granted final approval to a \$75 million settlement in the American Cemwood roofing shakes national class action litigation. This amount is in addition to a \$65 million partial settlement the Court approved in May 2000. This second \$75 million settlement resolves claims against the remaining defendants: American Cemwood Corporation, American Home Assurance Company, Commerce & Industry Insurance Co., Commerce &

Industry Co. of Canada, and XL Insurance (Bermuda) Limited. The two Settlements together create a fund in the guaranteed principal amount of \$140 million, plus any interest that accrues on the fund prior to distribution to the Class.

## **SETTLEMENT FUND**

### **How much money will the Class members recover?**

The Court has granted final approval to a \$75 million settlement in the American Cemwood roofing shakes national class action litigation. This amount is in addition to a \$65 million partial settlement the Court approved in May 2000, bringing the guaranteed principle amount to \$140 million. After deduction of amounts approved by the Court for attorneys' fees and costs of administering the Settlement, the balance of the Settlement Fund will be allocated for claim payments.

Class members who file timely claim forms and establish qualifying damage will receive a portion of the Settlement Fund contingent upon the size of their roof and the total number of claims made.

Claim payments will be calculated by the size of the claimants' roof and the amount designated by the plan of allocation for the year the claim was filed.

## **CLAIMS PROGRAM**

### **What are the eligibility requirements for filing a claim?**

Class members will be eligible to receive a distribution from the Fund if a claim is filed and the property has incurred Qualifying Damage on or before February 7, 2015. Qualifying Damage is defined as any one of the following:

1. the roof is leaking water beyond the felt underlayment as a result of the condition of the Cemwood Shakes;
2. more than two Cemwood Shakes per Field Square are visibly cracked, or broken through the body of the Cemwood Shakes (this calculation will be made by determining the total number of visible cracks or breaks divided by the total number of Field Squares on the roof, the result of which must be more than two);
3. 5% or more of any roof plane, consisting of at least 25% of the roof of the property, contains (a) Cemwood Shakes that are lifting, cupping, warping, or curling in excess of one-half of an inch when rain has not occurred for two hours, or (b) there is softness or punkiness in the Cemwood Shakes when rain has not occurred for two hours, such that application of moderate thumb pressure deforms or punches a hole in the Cemwood shakes; or
4. a prior replacement was made by a Class member and the Claims Administrator determines based on materials submitted by the Class Member that at the time of prior replacement the property had Qualifying Damage under any of (1) through (3) above.

If there is more than one eligible claimant for a property involving multiple owners, the amount paid to each of the claimants will be pro rated between them.

## **QUESTIONS ABOUT THE SETTLEMENT**

### **Who may I speak with if I have additional questions about the Settlement?**

Questions regarding the Settlement may be directed to any of the following members of Class Counsel:

David Birka-White  
BIRKA-WHITE LAW OFFICES  
415-616-9999 or Toll Free 866-474-9999

Kristen Law  
Lief, Cabraser, Heimann & Bernstein, LLP

(415) 956-1000 or (212) 218-6600

William Audet  
Alexander, Hawes & Audet, LLP  
(415) 982-1776

## **APPROVAL OF SETTLEMENT**

### **Has the Settlement been approved?**

On November 18, 2003 the Court granted final approval to a \$75 million Phase 2 settlement in the American Cemwood roofing shakes national class action litigation. This amount is in addition to a \$65 million partial settlement the Court approved in May 2000, bringing the guaranteed principle amount to \$140 million.

## **EXCLUSION FROM CLASS**

### **How can I exclude myself from this lawsuit?**

The deadline to request exclusion from the Settlement was May 5, 2000. If you did not file a Request for Exclusion postmarked by this date, you remain a member of the Class and are eligible to file a claim and receive compensation through the Settlement Fund.

## **CLASS COUNSEL**

### **Who represents the Class members in this lawsuit?**

The Court appointed the following firms as Lead Class Counsel for the Plaintiffs:

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
Contact: Kristen Law  
Embarcadero Center West  
275 Battery Street, 30th Floor  
San Francisco, CA 94111-3339  
Telephone: 415-956-1000

ALEXANDER, HAWES & AUDET LLP  
Contact: Tyler Shaw  
152 North Third Street, Suite 600  
San Jose, CA 95112  
Telephone: 408-289-1776

BIRKA-WHITE LAW OFFICES  
David M. Birka-White  
275 Battery Street  
San Francisco, CA 94111  
Telephone: 415-616-9999 or Toll Free 866-474-9999

## **SETTLEMENT AGREEMENT**

### **How may I obtain further information regarding the terms of this lawsuit?**

You may inspect the pleadings, Settlement Agreement and other papers filed in this action at the Office of the Clerk of the Superior Court of San Joaquin County, 222 East Weber Avenue, Stockton, California, 95202 during business hours. Copies of both settlement agreements can be downloaded from this site ([home page](#)).

Please do not call or write to the Court.

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