

DISTRICT COURT  
CLARK COUNTY, NEVADA

IN RE KITEC FITTING LITIGATION

Case No.: A493302  
Dept. No.: XVI

**FOURTH NOTICE OF CLASS ACTION**

**TO: ALL OWNERS OF RESIDENCES IN CLARK COUNTY, NEVADA WITH BRASS KITEC FITTINGS INSTALLED BETWEEN 1995 AND THE PRESENT.**

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY. IT DISCUSSES A CLASS ACTION THAT MIGHT INVOLVE YOU. YOUR RIGHTS MAY BE AFFECTED BY THE LEGAL PROCEEDINGS DESCRIBED BELOW.**

**THIS IS NOT A NOTICE OF A SUIT AGAINST YOU. RATHER, YOU MAY BE ELIGIBLE AS A PLAINTIFF CLASS MEMBER TO RECOVER COMPENSATION FOR DAMAGE FROM DEFECTIVE PLUMBING PRODUCTS IN YOUR RESIDENCE.**

**I. PURPOSE OF THIS NOTICE:** This Notice is given to you pursuant to an Order certifying a class action under Rule 23(c)(2) of the Nevada Rules of Civil Procedure, entered on October 16, 2006 by the Honorable Timothy C. Williams of the Eighth Judicial District Court, Clark County, Nevada. You may be a member of the class described herein. This notice is to inform you of the pendency of a class action lawsuit and to explain how to request exclusion from the class if you do not wish to be a class member. The members of the Class Action certified by the Court's October 16, 2006 Order, as amended by the Court on April 30, 2008, include:

**Any owner of a residence in Clark County, Nevada with brass Kitec fittings installed between 1995 and the present.**

**II. DESCRIPTION OF THE LAWSUIT:** This is a product liability, negligence, and breach of warranty case arising from allegedly defective brass fittings ("Kitec Fittings") manufactured or distributed by or on behalf of Defendants IPEX USA, LLC, and IPEX, Inc. (collectively, "Ipex"), and installed by numerous plumbing sub-contractors (collectively, "Plumbers") within homes in Clark County, Nevada. The Plaintiff Class Representatives have alleged that Kitec Fittings are defective because they fail when exposed to water because of a chemical reaction called dezincification.

Plaintiffs are homeowners in Clark County with residences that have had brass Kitec Fittings installed by Plumbers between 1995 and the present. The presently-named Class Representative Plaintiffs are Tracie L. Quinterro, Eric W. Quinterro, Stephan Inferrera, Sheila Inferrera, Anna Navarro, Susan Sheldon, Robert Dostler, Beverly Miller, Emma Norton, David Ober, Charles Lang, Katherine Lang, David Pursiano, Laurel Brady, Pamela J. Smith, Kari Brady, Paul Brady, Roderick Saup, Rhonda Saup Laura Ishum, Nancy Drapeau, Yolanda Flores, Rebekah Ogle and Rick Guzman (collectively, "Class Representatives").

This Class Action seeks money damages together with attorneys' fees and costs of suit from the Defendants on behalf of all Class Members. **This Class Action does not seek any damages for personal injury.** Any proceeds from this Class Action, after attorneys' fees and costs have been paid, will be used to compensate Class Members for damages awarded.

**III. WHY HAVE YOU RECEIVED THIS NOTICE:** Your home is within a neighborhood that has been disclosed by one of the Defendants in this action as a neighborhood where brass Kitec Fittings may have been installed in some, but not necessarily

all, homes. The neighborhood where brass Kitec Fitting may have been installed is as follows: **SUN CITY MACDONALD RANCH**

**IV. HOW TO DETERMINE WHETHER YOUR HOME CONTAINS BRASS KITEC FITTINGS:**

- 1) Homes plumbed with Kitec Fittings *may* have a yellow or neon sticker on the inside panel of their electrical box that states "Kitec" or "Plumbetter" nonmetallic plumbing was installed in the home. The purpose of these stickers is to alert electricians regarding proper electrical grounding procedures for nonmetallic plumbing. If you find such as sticker in your electrical panel box, it is *likely* but not certain that your home contains Kitec Fittings. Please be aware, however, that such stickers were sometimes used indiscriminately to warn of nonmetallic plumbing systems other than Kitec. It is, therefore, possible that your home does not contain Kitec plumbing even if you find a yellow sticker in the electrical panel box. Similarly, many homes that contain Kitec plumbing do *not* have stickers in their electrical panel boxes. **Please be sure before you open or check your electrical box that you have experience with its location and safe use.**
- 2) Class Counsel is conducting inspections of a limited number of homes in each of the neighborhoods that receive this Notice solely to confirm the presence of Kitec Fittings within the neighborhood. Homeowners are, therefore, requested to contact Class Counsel if they are unsure whether their home contains Kitec Fittings and to inquire whether Class Counsel has yet determined if their neighborhood contains Kitec Fittings. If inspections have not yet confirmed the presence of Kitec Fittings, Class Counsel may schedule an inspection at no cost to the homeowner to determine whether Kitec Fittings are present.
- 3) You may hire a plumbing company that is familiar with the identification of Kitec Fittings. If you choose to hire a plumber, you must provide a copy of the plumber's confirmation of the presence or absence of Kitec Fittings to Class Counsel.

**V. CHOICES YOU NEED TO MAKE NOW: IF YOU MEET THE DEFINITION OF THE CLASS, AND WISH TO REMAIN A MEMBER OF THE CLASS, YOU NEED DO NOTHING AT THIS TIME. IF YOU WISH TO BE EXCLUDED FROM THIS CLASS, AND NOT BE ELIGIBLE TO RECOVER ANY MONEY IN THIS ACTION, YOU MUST SUBMIT A WRITTEN REQUEST FOR EXCLUSION ON OR BEFORE December 5, 2008.**

If you are a member of the above-described class, you will be deemed a party to this action for all purposes unless you request exclusion from the class action on or before **December 5, 2008**. For your convenience, the request for exclusion may be submitted on the attached form, entitled "Request for Exclusion." Class members who do not request exclusion will be bound by any settlement or judgment, whether favorable or not, of the class.

You have the right to consult with your own attorney about any matters related to this Notice of Class Action. If you so desire, you may enter an appearance through counsel of your own choice. You will be represented by counsel for the class representatives unless you choose to enter an appearance through your own legal counsel. If you choose to enter an appearance through your own legal counsel, you will be responsible for the legal fees and costs of your personal counsel.

Class members who do not request exclusion will be bound by any judgment whether favorable or not to the class, and will not have the right to maintain a separate action even if they have already filed their action. **FUTURE CLAIMS FOR DAMAGES RELATED TO KITEC FITTINGS THAT YOU MAY HAVE AGAINST ANY DEFENDANTS NAMED IN THIS ACTION MAY BE BARRED IF YOU REMAIN A MEMBER OF THIS CLASS BY NOT REQUESTING EXCLUSION FROM THIS CLASS ACTION. IF YOU REMAIN A MEMBER OF THIS CLASS YOU MAY BE REQUIRED TO PARTICIPATE IN DISCOVERY.**

If you did not receive a Request for Exclusion form, you may obtain a copy by writing to the Clerk of the Court, Eighth Judicial District Court, Clark County Courthouse, 200 Lewis Avenue, 3<sup>rd</sup> Floor, Las Vegas, Nevada, 89155-1601, or to Harrison, Kemp, Jones & Coulthard, LLP, 3800 Howard Hughes Pkwy, 17<sup>th</sup> Floor, Las Vegas, Nevada, 89169. A written Request for Exclusion may be submitted without using the Request for Exclusion form, but must refer to this litigation as IN RE KITEC FITTING LITIGATION, Case No. A493302, and include your name and address in your statement requesting exclusion. Any request for exclusion must be received by the Clerk of the Court, Eighth Judicial District Court, Clark County Courthouse, 200 Lewis Avenue, Las Vegas, Nevada, 89155, or by Harrison, Kemp, Jones & Coulthard, LLP, Attn: Stacy Morrison, 3800 Howard Hughes Pkwy, 17<sup>th</sup> Floor, Las Vegas, Nevada, 89169, on or before December 5, 2008, or you will be considered a member of the class.

**VI. PLAINTIFFS' CLASS COUNSEL:** The Plaintiffs and the Class are represented by the following attorneys and law firms: William L. Coulthard, Esq., and J. Randall Jones, Esq., of Harrison, Kemp, Jones & Coulthard, LLP, 3800 Howard Hughes Parkway, 17<sup>th</sup> Floor, Las Vegas, Nevada 89169; and, Francis Lynch, Esq., Charles "Dee" Hopper, Esq., and Sergio Salzano, Esq., of Lynch, Hopper & Salzano, LLP, 231 S. 3<sup>rd</sup> Street, Las Vegas, NV 89101.

**VII. ATTORNEYS' FEES AND COSTS OF SUIT:**

If successful in this action, Class Counsel attorneys' fees and costs will be paid out, on a contingent fee basis, of any monetary recovery obtained by the Plaintiffs in this case. Class Counsel shall be paid its attorneys' fees based on a percentage of the overall recovery. Class Counsel presently has a Contingent Fee Agreement with all Class Representative which provides as follows:

**The Fee. The Client agrees to pay to the Law Firm as a fee (the "Fee") an amount equal to thirty-three and one-third percent (33-1/3%) of any sums recovered in the event that the Claim is settled up to ninety (90) days before the matter is first set for trial by the Court; forty percent (40%) of any sums recovered by settlement or judgment within ninety (90) days of the date the matter is first set for trial by the Court; or fifty percent (50%) of any sums recovered by settlement or judgment after a notice of appeal is filed by any party. The Client further agrees that the Law Firm's fee, the percentage amount referred to hereinabove, shall be determined based upon the "gross amount recovered." The Client understands that the "gross amount recovered" means the total sum recovered either as a result of a verdict, judgment or settlement, and includes any attorneys fees or costs of suit or expenses awarded by the Court, or paid in settlement. After the Firm's fee has been deducted from the gross amount recovered, but before the remainder is distributed to the Client, there shall be deducted from the Client's share of the recovery and paid to the Law Firm the amount of any Costs advanced by the Law Firm or any Costs incurred by the Law Firm which have not, as yet, been paid.**

**Importantly, if you remain a member of the class you will NOT be charged with separate or additional attorneys' fees or costs of suit other than that percentage of the overall class recovery in the event of a favorable settlement or judgment. All Defendants have denied Plaintiffs' allegations and have all asserted affirmative defenses to Plaintiffs' allegations and are presently defending this action. In the event a Defendant is successful in defending the claims made against it, said Defendant has the right to seek reimbursement for its fees and costs incurred in the defense of this action from the Plaintiffs. This means that Plaintiffs may be required to pay the costs of defense of this suit. Further, a suit brought solely to harass or to coerce a settlement may result in liability for malicious prosecution or abuse of process.**

**VIII. ADDITIONAL INFORMATION:**

**REPAIRS:** If you meet the definition of the Class and choose not to opt-out of the Class Action, **YOU MUST NOTIFY CLASS COUNSEL of any non-emergency repairs to any part of your Kitec plumbing system. Defendants MUST be given five (5) days written notice and the opportunity to be present to observe any re-plumbs and/or non-emergency repairs.** With respect to emergency repairs, emergency repairs are defined as those repairs that occur immediately following a leak or flood resulting from a brass Kitec fitting failure, and Class Counsel must still be notified of any emergency repair in the most reasonable means possible.

If you have already completed a re-plumb repair of your home, you **MUST** provide Class Counsel with the following information:

1. Homeowner name;
2. Address of home where re-plumb occurred;
3. Name of community where home is located;
4. Statement as to whether Kitec fittings were specifically located during the re-plumb repair;
5. Date re-plumb repair occurred;
6. Date of Kitec failure, if any; and
7. The total cost for the re-plumb repair.

**Examination of Pleadings and Papers:** This notice is only a summary of the pending lawsuit and is not intended to be all inclusive. References to pleadings and other papers and proceedings are only summaries. For full details concerning the class action and the claims and defenses which have been asserted by the parties, you and/or your counsel may review the pleadings and other papers filed at the office of the District Court Clerk's Office, 3rd Floor, Clark County Courthouse, 200 Lewis Avenue, Las Vegas, Nevada on any business day from 8:00 a.m. to 5:00 p.m.

**Interpretation of this Notice of Class Action:** Except as indicated in the orders and decisions of the Eighth Judicial District Court, Las Vegas, Nevada, no Court has yet ruled on the merits of any of the pending claims or defenses asserted by the parties in this Class Action. This Notice is not an expression of an opinion by the Court as to the merits of any claims or defenses. This Notice is being sent to you solely to inform you of the nature of the litigation, your rights and obligations as a Class Member, the steps required to be excluded from the class, and the Court's certification of the Class. **Please do not call the Court or the Clerk of the Court regarding this matter.**

DATED this 17<sup>th</sup> day of October, 2008.

J. Randall Jones, Esq. (#1927)  
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