

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTOWN DIVISION**

IN RE: AQUEOUS FILM-FORMING
FOAMS PRODUCTS LIABILITY
LITIGATION

Joan Campbell and Richard Campbell,
for themselves and on behalf of all others
similarly situated,

Plaintiffs,

vs.

Tyco Fire Products LP; Chemguard, Inc.; and
Chemdesign Products, Inc.

Defendants,

JUDGE: RICHARD M. GERGEL
MDL NO. 2:18-MN-2873-RMG

This Document relates to
Campbell v. Tyco Fire Products LP et al.
No. 2:19-cv-00422-RMG

Status Report From The Settlement Administrator

The Settlement Administrator of the *Campbell v. Tyco Fire Products LP, Chemgaurd Inc. and ChemDesign Products Inc.* Class Action Settlement Agreement (the “Settlement”) submits the following report to apprise the Court of the status of its work in processing class claims and implementing the terms of the Class Action Settlement Agreement. This status report provides: (1) a summary of the types of class claims filed by the claim submission deadline; (2) the types of deficiencies contained in most of those claim filings; (3) the activities the Settlement Administrator is directing to help Class Members cure those deficiencies; and (4) the estimated timeline for making payments to eligible Class Members with approved class claims.

Summary of Claims Filed

Under the Class Action Settlement, Class Members may file claim forms to obtain “class benefits,” which include: (a) payments to resolve claims by *residents* for damages due to exposure to PFAS (“Exposure Class Damages”); and (b) payments to resolve claims by *property owners* for damages due to loss of value to real property (“Property Class Damages”). The deadline for submitting claims for these benefits passed on October 22, 2021. At that time, the Administrator had received 1,180 total claim form submissions for a total of 1,608 separate Property Class Damages benefit claims and Exposure Class Damages benefit claims (499 Property and 1,109 Exposure claims). As these figures imply, a Class Member may make claims for both a Property Class Damages claim and an Exposure Class Damages claim. It is also important to note that there may be numerous residents at a property, each of whom may make an Exposure Class Damages claim. Thus, for example, a husband and wife who live in and own a property within the Class Area may each receive payment for an Exposure Class Damages claim. This would be in addition to any payment for their Property Class Damages claim.

Further, both former and current owners may make claims for Property Class Damages benefits; and both former and current residents may make claims for Exposure Class Damages benefits. Current owners account for approximately 63% of the claims for Property Class Damages and former owners account for the remaining 37% of such claims. With respect to Exposure Class Damages claims, those percentages are inverted: Current residents account for approximately 37% of claims and former residents account for the 63% balance.

Current owners as well as current residents also had the option of submitting well-testing evidence to demonstrate the total PFAS concentration in their private well water source. While

these statistics may change as the claim defects discussed below are addressed, the PFAS values associated with such claims are presently as follows:

<u>CATEGORY OF CLAIM</u>	<u>Count</u>
Property Ownership - Current Owner	
<i>Total PFAS Concentration in water 70+ ppt</i>	16
<i>Total PFAS Concentration in water 20-69 ppt</i>	16
<i>Total PFAS Concentration in water 1-19 ppt</i>	90
<i>Total PFAS Concentration in water not detectible or unknown</i>	152
Exposure - Current Resident	
<i>Total PFAS Concentration in water 70+ ppt</i>	15
<i>Total PFAS Concentration in water 20-69 ppt</i>	15
<i>Total PFAS Concentration in water 1-19 ppt</i>	84
<i>Total PFAS Concentration in water not detectible or unknown</i>	213

The Class Settlement Agreement also allowed for Class Members to request a well test – at the expense of Defendants – if the Class Member did not have such a test already in their possession or control for their private well drinking water source. Thirty-six (36) claimants requested such testing and the Settlement Administrator forwarded these requests to Defendants’ counsel, so that such tests could be coordinated with a qualified vendor acceptable to Defendants.

In addition to making their “base” claim for Property Class Damages and Exposure Class Damages benefits, Class Members may apply for additional payment from a Supplemental Ownership Fund and a Supplemental Exposure Fund. The Supplemental Ownership Fund will be used to pay Class Members who can show exceptional Property Class Damages. For example, if a Class Member’s property value or size is well above average, such that they suffered exceptional loss in property value, they may qualify for an additional settlement amount. The Supplemental Exposure Fund will be used to pay Class Members who can show exceptional Exposure Class Damages. For example, if a Class Member can show high PFAS

exposure for a long period of time, they may qualify for an additional amount. 150 individuals (or approximately 30% of individuals making Property Class Damages claims) also filed for benefits from the Supplemental Ownership Fund, and 438 individuals (or approximately 40% of individuals making Exposure Class Damage claims) also filed for benefits from the Supplemental Exposure Fund.

Claim Deficiencies

The Settlement Administrator retained the services of Epiq to assist in the review and processing of claims. After the claim filing deadline expired in October of 2021, Epiq spent November 2021 to February 2022 reviewing the claims. Epiq then published a report to Class Counsel listing all claims that were ready to approve and all claims that contained some type of deficiency. Further, Epiq spent considerable time checking property addresses for eligibility, reviewing supporting documentation, and reviewing the content of the claim for inconsistencies and potential fraud.

On a positive note, Epiq determined that approximately 200 claims were complete and eligible. However, Epiq established that about 90% of claims filed had one or more deficiencies. To this end, Epiq categorized the type of deficiencies as follows:

- 227 COC: Competing Ownership Claims (e.g., Multiple claimants filed for ownership over the same property address during the same period).
- 226 IOD: Insufficient Ownership Documentation provided with Claim Form.
- 19 IOI: Insufficient Ownership Information provided with Claim Form.
- 40 IOP: Insufficient Ownership Period recorded on the Claim Form.
- 540 IRD: Insufficient Resident Documentation provided with Claim Form.

- 10 IRI: Insufficient Resident Information provided with Claim Form.
- 42 IRP: Insufficient Residency Period recorded on the Claim Form.
- 12 MCI: Missing Contact Information on the Claim Form.
- 2 MRI: Missing Representation/Attorney Information (*e.g.*, primarily for minors or incapacitated claimants).
- 29 REP: Insufficient Representation Documentation (*e.g.*, primarily for minors or incapacitated claimants).
- 3 SG1: Missing Claim Signature
- 12 SG2: Missing Release Signature
- 16 RAD: Re-addressed (*e.g.*, where a previous mailing address was changed to a different mailing address in the locality).
- 152 OEO: Outside Eligible Property Area – Owner
- 356 OER: Outside Eligible Property Area – Resident
- 8 VAC: Vacant Lot/Outlot (*e.g.*, the address is in the Class Area, but the lot appears to have no dwelling according to the claimant’s documentation and/or the Administrator’s research).
- 32 FRD: Potentially Fraudulent Claims (*e.g.*, altered proof documentation, individual’s name is contained on a “known fraudster” database).

It is worth noting that the last four deficiency types listed above require extra diligence to determine if such claims are fraudulent. Those with clear fraud (such as those on a known “fraudster” database, or those where supporting documents show clear alterations) will be denied automatically; however, there are other cases that may or may not be fraudulent and so require further investigation (such as the Outside Eligible Property Area – Owner (OEO) or Outside

Eligible Property Area – Resident (OER)). For instance, some of the claims with the OEO and OER deficiencies might simply be submitted by individuals errantly recording their address on the claim form. But, in the Settlement Administrator’s experience, it is possible that a substantial percentage of these deficiencies are due to individuals who are purposefully submitting a false claim to see if it would be accepted by the Administrator.

Efforts to Assist Class Members in Curing Deficiencies

Given the high number of deficiencies, the Settlement Administrator is undertaking many initiatives to assist Class Members in curing their claim deficiencies. On February 28, 2022, the Settlement Administrator sent 192 letters to Class Members informing them that their claim was deemed complete and eligible for Class Benefits. On the same date, however, the Administrator sent 922 letters notifying individuals of the deficiencies contained in their claim submission. These individuals were notified that they will have 30 days (until March 30, 2022) to cure all deficiencies in their claim submission.

In addition to the deficiency letters, the Settlement Administrator has directed Epiq, as well as the Class Notice Agent, to make outbound phone calls to claimants to assist them in curing their deficiencies. Further, the Settlement Administrator has engaged a local resource to conduct “on the ground” research to help determine the validity of questionable addresses, and/or whether the address contains a residential dwelling (as opposed to being vacant or commercial). Further, this local resource will investigate a parcel “readdressing” issue, which was previously unknown to the Settlement Administrator. Specifically, it has come to the Settlement Administrator’s attention that, some time in the last 40 years, several parcels were assigned a new address – meaning a former resident or owner may have a valid claim, even though the

address submitted on their proof documentation is different than the address currently assigned to the parcel. The local resource is researching all relevant public records to determine which addresses were legitimately changed in the last 40 years.

Further, given the number of claimants who have “competing” ownership claims (meaning multiple individuals submitted proof documentation that they are “owners” of the same property), the Administrator is informing such claimants that their Property Class Damages award will be made out to each of the parties on the *eligible* ownership documentation (*i.e.*, split among the parties on the eligible ownership documentation). If the documentation shows eligible ownership to one party, only that party will receive the award.

Finally, the Administrator modified the Update section of the Class Settlement Website (www.firefightingfoamsettlement.com) to inform claimants that, given the high volume of claims with deficiencies, the estimated claims-processing timeline will extend beyond the dates originally forecasted. In this Update, the Settlement Administrator asks for Class Members’ continued patience, and their understanding that we want to make sure only valid claims receive appropriate class settlement compensation. Further, Class Members are reminded that the Settlement Administrator cannot determine *any* Claimant’s final class settlement amount until *all* class claims are fully reviewed, because each Claimant’s final amount depends on how many total Claimants qualify for each type of class claim (as well as PFAS levels for Current owners and residents who submitted evidence of PFAS levels with their claim).

Estimated Timeline to Complete Claims Processing

As referenced above, the Settlement Administrator cannot determine any Claimant’s final class settlement amount until all claims are fully reviewed. As in all settlements, scrutiny and

program integrity are crucial; in this matter they are even more important, because the more diligence the Settlement Administrator brings to bear in vetting claims, the greater the ultimate payments will be to truly eligible Class Members. In fact, the Settlement Administrator believes that a likely benefit arising from this additional time spent in finalizing claim review is that the actual payment amounts to Class Members ultimately deemed eligible will be larger than originally forecast.

The chart below shows the amounts the Settlement Administrator originally estimated would be paid for each type of class benefit claim. Based upon current forecasts, the actual amounts paid likely will be more than the estimates shown in the chart.

Category of Claim	Estimated Payment Amount
Property Ownership - Current Owner	
<i>Total PFAS Concentration in water 70+ ppt</i>	\$65,000
<i>Total PFAS Concentration in water 20-69 ppt</i>	\$39,000
<i>Total PFAS Concentration in water 1-19 ppt</i>	\$26,000
<i>Total PFAS Concentration in water not detectible or unknown*</i>	\$13,000
Property Ownership - Former Owner	\$4,000
Exposure - Current Resident	
<i>Total PFAS Concentration in water 70+ ppt</i>	\$6,500
<i>Total PFAS Concentration in water 20-69 ppt</i>	\$3,900
<i>Total PFAS Concentration in water 1-19 ppt</i>	\$2,600
<i>Total PFAS Concentration in water not detectible or unknown*</i>	\$1,300
Exposure - Former Resident	\$1,000

With the deadline to cure deficiencies expiring on March 30, 2022 (and given the need to re-review hundreds of claims with newly submitted proof), the Settlement Administrator is

estimating that payments could begin as early as the end of April but most likely in May, 2022.

Respectfully submitted,

A handwritten signature in black ink that reads "David Cohen". The signature is written in a cursive style with a long horizontal flourish at the end.

David R. Cohen

Settlement Administrator