

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT and CAROL GOLZAK, and)	
JOHN KARNES on behalf of themselves)	CASE NO.
and all others similarly situated,)	
)	
Plaintiffs,)	CLASS ACTION COMPLAINT
)	
v.)	
)	
LINCOLN WOOD PRODUCTS, INC.,)	JURY TRIAL DEMANDED
A Wisconsin Corporation,)	
)	
Defendant.)	

Plaintiffs, Robert Golzak, Carol Golzak and John Karnes (“collectively Plaintiffs”), by and through their undersigned counsel, on behalf of themselves and all other persons and entities similarly situated, allege against Defendant Lincoln Wood Products, Inc. (“Defendant” or “Lincoln”) the following facts and claims upon knowledge as to matters relating to themselves and upon information and belief as to all other matters and, by way of this Class Action Complaint, aver as follows:

PARTIES

1. Plaintiffs Robert and Carol Golzak are citizens and residents of Pennsylvania. Plaintiffs own a home in Scott Township in which Lincoln Windows are installed. Scott Township is in Lackawanna County, Pennsylvania and is in this District.

2. Plaintiff John Karnes is a citizen and resident of Pennsylvania. Karnes owns a home in Erie in which Lincoln Windows are installed. Erie is located in Erie County, Pennsylvania.

3. Defendant, Lincoln Wood Products, Inc. is a Wisconsin corporation with its principal place of business located at 1400 West Taylor Street, P.O. Box 375, Merrill, WI 54452, and is organized and existing under the laws of the state of Wisconsin. At all relevant times, Lincoln transacted and conducted business in Pennsylvania.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(d)(2) (diversity jurisdiction) and the Class Action Fairness Act, in that (i) there is complete diversity (Plaintiffs are citizen of Pennsylvania and Defendant is domiciled and incorporated in another state), (ii) the amount in controversy exceeds \$5,000,000.00 (Five Million Dollars) exclusive of interests and costs, and (iii) there are 100 or more members of the proposed Plaintiffs' class.

5. Venue lies in this District pursuant to 28 U.S.C. §1391 because the Golzak Plaintiffs reside in this Judicial District, and a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this Judicial District. In addition, Lincoln does business and/or transacts business in this Judicial District,

and therefore, is subject to personal jurisdiction in this Judicial District and resides here for venue purposes.

FACTUAL AND LEGAL ALLEGATIONS

6. This is a proposed class action brought by Plaintiffs on behalf of themselves and other consumers seeking damages in connection with defective windows designed, marketed, manufactured, advertised, distributed and sold by Lincoln.

7. At all times relevant herein, Lincoln was engaged in the marketing, sale, supply, and delivery of windows and window products in the Commonwealth of Pennsylvania.

8. At all times relevant herein, Lincoln designed, manufactured, marketed, sold, supplied and distributed aluminum wood clad, exterior glazed windows (the “Windows”).

9. This case concerns Lincoln’s failure to disclose to purchasers of its Windows, the builders of the purchaser’s structures, and owners of the Windows, that the windows were defective in material and workmanship as a result of the design and manufacturing practices of Lincoln.

10. The Windows are defective and fail to perform at Plaintiffs’ and Class Members’ residences by permitting water intrusion through unsealed or

inadequately sealed areas of the window frame and into the interior of the residences.

11. The Windows are defective and fail to perform at Plaintiffs' residence and at Class Members' residences by permitting water to penetrate through the aluminum cladding without effectively discharging the water. The water congregates inside of the cladding, is absorbed by wood members, and causes rot, premature degradation, leaking and failure of the wood within the aluminum cladding.

12. Degradation of the sashes and frame permits additional air and water infiltration into the home in an accelerated cycle, damaging nearby building components and other property within the home.

13. The water intrusion and above-described damages resulting from the Windows constitutes "occurrences" resulting in "property damage" to property other than Lincoln's "product" as those terms are commonly defined and used in the typical commercial general liability insurance policy.

14. The above-described defects are due to fundamental design, engineering, and manufacturing errors which should have been within Lincoln's control and expertise.

15. Due to the defects, the Windows rot, prematurely degrade, fail, and permit air and water intrusion. Further, they violate the applicable building codes and industry standards.

16. The above described deficiencies exist at the time the Windows leave the factory.

17. Failure at the sashes and frames begin when the Windows are installed. These failures continue during repeated and prolonged exposure to weather and ordinary use.

18. Lincoln knew or should have known that the defects were present at the time the Windows left its control.

19. Lincoln knew or should have known the potential for leakage, rot, premature degradation, and failure of its Windows, but failed to adequately correct the defective design, formulation or manufacturing process that resulted in the damage.

20. Lincoln failed to warn purchasers, installers, contractors, suppliers, sub-contractors, or users of the above described risks of failure.

21. Lincoln's Windows includes a written express warranty which forms part of the basis of the bargain between Lincoln and the purchaser at the time of sale.

22. Lincoln's written express warranty also forms part of the basis of the bargain between the seller of the home and the home buyer, including Plaintiffs and Class Members.

23. Lincoln's written express warranty is typically transferred via express provisions in purchase agreements between the seller of the home and the home buyer.

24. Lincoln represents in its express written warranty and documents that induce the purchase of the Windows that the Windows would be free from defects and workmanship issues for at least ten (10) years from the date of sale, or that Lincoln would remedy the situation.

25. Lincoln's representations, expressly and impliedly, through its website, brochures and marketing materials that the Windows are suitable and free from defects, were intended to and likely did affect the market by inducing builders, contractors, suppliers and others to purchase the Windows.

26. Plaintiffs and Class Members and their respective agents or builders relied upon these representations when Plaintiffs purchased the Windows or the homes containing the Windows.

27. Due to the defects described herein, Plaintiffs have notified Lincoln of the defects and the resultant damages in the Windows. Further, other Class Members in the Commonwealth of Pennsylvania have notified Lincoln of the

defects. Lincoln has acknowledged the issues with Plaintiffs' Windows, but Lincoln has asserted that the problems, defects and damages are not due to their Windows.

28. In addition, Lincoln has acknowledged that the express written warranty applies to Plaintiffs' and Class Members' Windows.

29. Any limitations contained in the written warranties are unconscionable because Lincoln's shipping and delivery of the Windows with actual or constructive knowledge of the defects, or with negligent or reckless disregard of the presence of defects, constituted a breach of its express warranty, and makes the limitations of the express warranty unconscionable in all respects and therefore void *ab initio*. Lincoln was also in a superior position with respect to bargaining power and its knowledge of the defect.

30. The published Lincoln written warranties include the following limitations (hereinafter "limitations"):

- a. The warranty is limited for ten (10) years from the date of manufacturer, regardless of when the windows are sold or installed;
- b. Lincoln purports to limit its responsibility to defects in materials and workmanship only;
- c. The warranty requires that notice be given to Lincoln within thirty (30) days of discovery of a "defect" in its windows or window components;

- d. The warranty requires that the homeowner be able to identify a “defect” in the window;
- e. The warranty excludes the cost of mandatory inspection of the Windows once notice of a defect is given;
- f. The warranty purports to limit its responsibility by offering a refund of the purchase prices, if replacement or repair is not reasonably possibly, solely within the discretion of Lincoln.
- g. The warranty excludes the labor, shipping, and all other costs associated with removal or installation of products for repair or replacement;
- h. The warranty is extinguished once replacement has been made;
- i. The warranty excludes other window components necessary to install the covered replacement product;
- j. The warranty excludes any liability for consequential or incidental damages;
- k. The warranty limits the warranty on the replacement product to the remainder of the warranty period of the original unit;
- l. The warranty excludes damage due to exposure to conditions beyond published performance specifications; and
- m. The warranty purports to exclude implied warranties of merchantability or fitness for a particular purpose.

31. The written warranty is not a negotiated contract and is so one-sided that no reasonable person would ever knowingly agree to its terms if properly disclosed.

32. Further, Lincoln has engaged in a pattern and practice of failing to honor or discouraging warranty claims by requiring the property owner to hire a Lincoln provided, third-party inspector at a cost paid by the owner (and not Lincoln) to initially inspect the Windows.

33. Another method of thwarting warranty claims is requiring the owner to pay for window or window components that should otherwise be covered under Lincoln's warranties.

34. Upon discovery of the problems with the Windows, Plaintiffs timely notified Lincoln of the failure of multiple Windows in their home.

35. Upon inspection of Plaintiffs' home, Lincoln denied that there were any defects with the Windows and the defects/damages were due to other issues in Plaintiffs' home.

36. Lincoln has responded to the warranty claims of class members in the same or similar manner as it did Plaintiffs.

37. As described herein, Lincoln's pattern and practice has the effect of discouraging defect claims by class members.

38. Moreover, during contact with class members, Lincoln conceals knowledge of product defects with the Windows in the Class Members' homes.

39. As Lincoln has known or should have known of its Window defects and has failed to timely honor its warranties, the warranties have failed of their

essential purpose and the limitations contained therein are null and void, and Plaintiffs and Class Members have otherwise not received the value for which they, their builders, contractors, or subcontractors bargained at the time the Windows were purchased or transferred to homeowners.

40. The defects in Lincoln's Windows render them unfit for their intended use.

41. Given the leaking, rotting, premature degradation, and failure of the Windows, the Windows have a reduced useful life expectancy, and require unexpected maintenance, repair, and replacement by Plaintiffs and Class Members.

42. The Window defects and resultant damages have caused a diminution of the value of the homes.

43. Lincoln knew or should have known that the Windows did not and do not satisfy the applicable building codes and industry standards.

44. Lincoln knew or should have known that its Windows were defective in design and manufacture, not fit for their ordinary and intended use, not merchantable, and failed to perform in accordance with the advertisements, brochures, representations, marketing materials, and warranties disseminated by Lincoln.

45. As discussed herein, Lincoln's Windows failed to conform to the reasonable expectations of ordinary consumers such as Plaintiffs and Class Members.

46. Since the Windows leak, and permit increased water absorption, water penetration, rot, degradation, cause reduced life expectancy, and otherwise fail, the Windows are neither durable nor suitable for use as an exterior building product.

47. The above described defective conditions of the Windows and resultant damages are present in Plaintiffs' home and are common among Class Members.

48. Plaintiffs and Class members have been proximately damaged by the Windows' above-described defective condition and Lincoln's above-described conduct.

INDIVIDUAL PLAINTIFFS' ALLEGATIONS

Robert & Carol Golzak

49. Robert and Carol Golzak are residents and citizens of the Commonwealth of Pennsylvania. Their home located at 19 Golzak Lane, Scott Township, PA 18447 was constructed by Complete Construction & Remodeling ("Complete Construction") based out of Clarks Summit, Pennsylvania from 2009 to February 2010.

50. Mr. Goltzak is employed by Complete Construction and worked on the construction of his home. Mr. Goltzak has over 23 years of experience in construction, including in window installation.

51. Thirteen windows manufactured by Lincoln Windows were installed by Complete Construction in Plaintiffs' home in 2009 or 2010. The Lincoln Windows were delivered to the home in or about December 2009.

52. Plaintiffs purchased the Lincoln Windows from Brojack Lumber Company ("Brojack"). At the time that Plaintiffs' purchased the windows, Brojack informed Plaintiffs that the Lincoln Windows were the highest quality windows on the market.

53. During the installation of the Lincoln Windows in their home, Mr. Goltzak discovered that the piece of aluminum that molded together the windows was missing. At that time, Mr. Goltzak immediately contacted Brojack. Brojack contacted Lincoln Windows to advise it of the missing pieces. Lincoln Windows sent a representative to the Goltzaks' home to confirm that the pieces were missing. Brojack subsequently sent technicians to the Goltzaks' home to install the missing pieces.

54. After the Lincoln Windows were installed in Plaintiffs' home, Plaintiffs noticed wood rot, condensation, and ice build-up on and near the

windows. Upon seeing the condensation and ice build-up, Plaintiffs immediately contacted Brojack to inform it of the problem.

55. Brojack contacted Lincoln Windows to advise it of the problem. Between Brojack and Lincoln Windows, Plaintiffs had the weather stripping and jam liner replaced in some of their Lincoln Windows.

56. The Golzaks believed that this repair would remedy the problems with their Windows; however, the problems with the condensation and ice build-up continued.

John Karnes

57. Plaintiff John Karnes is a resident and citizen of the Commonwealth of Pennsylvania. Karnes' home is located at 894 Richard Drive, Erie, Pennsylvania 16509.

58. Karnes' home was built in 1999 by Pastore Builders. When Karnes' home was constructed, 18 Lincoln Windows were installed in the home.

59. Karnes purchased the home in April 2004.

60. Beginning in or about 2006, Karnes noticed rust and moisture between the panes in the windows. He contacted Lincoln Windows who agreed to replace the windows.

61. In 2007-2008, Lincoln replaced the defective windows in Mr. Karnes's home.

62. Unbeknownst to Mr. Karnes, the replacement windows contained the same defects as the original windows.

63. In 2014, Mr. Karnes began to notice similar rusting and moisture between the panes of the windows. He contacted Lincoln Windows again and notified them of the problems with his six (6) and seven (7) year old replacement windows.

64. In response to his warranty claim, Lincoln Windows informed Mr. Karnes that his warranty was extinguished because the original defective windows had been replaced.

65. As the damage with the windows became progressively worse, Mr. Karnes performed research about his windows and obtained quotes for replacement windows made by other manufacturers.

66. After performing research about Lincoln Windows, Mr. Karnes discovered that there were other homeowners with the same or similar problems and that Lincoln Windows had been previously sued for defective design and manufacturing.

67. In the summer of 2016, engineering experts inspected his windows, documented the rust and moisture, and further discovered that the windows were deteriorating and rotting. As Lincoln Windows had previously indicated it would

not make additional repair or replacement of the replacement windows, Mr. Karnes did not make an additional warranty claim related to the newly discovered damage.

68. In the fall of 2016, following the engineering inspection, Mr. Karnes replaced some of his defective windows for nearly \$10,000. Several defective windows remain in his home.

CLASS ACTION ALLEGATIONS

69. Plaintiffs bring this class action pursuant to Fed. R. Civ. P. 23. The requirements of Fed. R. Civ. P. 23(a), (b)(2), (b)(3) and (c)(4) are met with respect to the classes defined below:

INJUNCTIVE RELIEF CLASS:

All persons and entities within the Commonwealth of Pennsylvania who are current owners of a structure on or in which Lincoln Windows are installed.

DAMAGES CLASS:

All persons and entities who are current owners of a structure located within Pennsylvania on or in which Lincoln Windows are installed and whose windows have exhibited rot or premature deterioration.

70. Excluded from the Classes are: (a) any Judge or Magistrate presiding over this action and members of their families; (b) Lincoln and any entity in which Lincoln has a controlling interest or which has a controlling interest in Lincoln and its legal representatives, assigns and successors of Lincoln; and (c) all persons who properly execute and file a timely request for exclusion from the Classes.

71. *Numerosity*: The Classes are composed of thousands of persons geographically dispersed, the joinder of whom in one action is impractical. Moreover, upon information and belief, the Classes are ascertainable and identifiable from Lincoln records or identifying marks on the Windows.

72. *Commonality*: Questions of law and fact common to the Classes exist as to all members of the Classes and predominate over any questions affecting only individual members of the Classes. These common legal and factual issues include, but are not limited to the following:

- a. Whether the Windows are defective;
- b. Whether Lincoln was negligent in its design and manufacture of the Windows;
- c. Whether the Windows have not performed or will not perform in accordance with the reasonable expectations of ordinary consumers;
- d. Whether Lincoln knew or should have known of the defect;
- e. Whether Lincoln breached the express warranty that the Windows were free of defects in material and workmanship when sold when in fact, Lincoln knew or should have known they were in defective by allowing water to penetrate behind the cladding and expose the interior wood components to moisture for prolonged periods without draining, evaporation, or adequate preservative to prevent wood rot;
- f. Whether Lincoln breached the implied warranty of merchantability by designing, manufacturing and selling the Windows when those windows would not pass without objection in the trade; were not fit for the ordinary purpose of exterior

windows; did not conform to the promises and affirmations of fact Lincoln made concerning the Windows;

- g. Whether Lincoln's Limited Warranty contained limitations, exclusions and disclaimers such as to cause it to fail of its essential purpose;
- h. Whether Lincoln's warranty was drafted and implemented to exculpate Lincoln from liability for Windows it knew, or should have known were defective when designed, manufactured and sold;
- i. Whether Plaintiffs and the Class members are entitled to compensatory damages, including, among other things: (i) compensation for all out-of-pocket monies expended by members of the Classes for replacement of Windows and/or installation costs; (ii) the failure of consideration in connection with and/or difference in value arising out of the variance between the Windows as warranted and the Windows containing the defect; and (iii) the diminution of resale value of the structures containing the Windows resulting from the defect.
- j. Whether Plaintiffs and the Class members are entitled to replacement of their defective Windows with non-defective Windows;
- k. Whether Plaintiffs and the Class members are entitled to restitution and/or disgorgement;
- l. Whether Lincoln falsely advertised and marketed its Windows to consumers;
- m. Whether the Windows conform to the applicable building code or applicable industry standards;
- n. Whether the Windows damage other property within Plaintiffs and Class Members' homes;
- o. Whether Lincoln concealed the defective nature of the Windows;

- p. Whether Lincoln's Limited Warranty is unconscionable;
- q. Whether Lincoln breached its express and implied warranties;
- r. Whether Lincoln's Limited Warranty adequately disclaimed its liability; and
- s. Whether Lincoln conduct as alleged is misleading, deceptive and/or unconscionable; and
- t. Whether Lincoln concealed from consumers and/or failed to disclose to consumers the defect.

73. *Typicality*: Plaintiffs' claims are typical of the claims of the members of the Class, as all such claims arise out of Lincoln's conduct in designing, manufacturing, marketing, advertising, warranting and selling the defective Windows, Lincoln's conduct in concealing the defect in the Windows, and Plaintiffs' and Class Members' purchasing structures with the defective Windows.

74. *Adequate Representation*: Plaintiffs will fairly and adequately protect the interests of the members of the Class and has no interests antagonistic to those of the Class. Plaintiffs have retained counsel experienced in the prosecution of complex class actions, including consumer class actions involving product liability and product design defects.

75. *Predominance and Superiority*: This class action is appropriate for certification because questions of law and fact common to the members of the Class predominate over questions affecting only individual members, and a Class action is superior to other available methods for the fair and efficient adjudication of this

controversy, since individual joinder of all members of the Class is impracticable. Should individual Class Members be required to bring separate actions, this Court and Courts throughout Illinois would be confronted with a multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single Court.

EQUITABLE ESTOPPELL/EQUITABLE TOLLING

76. Upon information and belief, Lincoln has known of the defects in the Windows for years and has concealed from owners of the Windows and/or failed to alert the owners of the defective nature of the Windows, and has, upon inquiry, affirmatively misrepresented that the Windows are defect free (despite Lincoln knowing they are inherently defective), blamed owner maintenance or installation and/or has failed to class members of the defective nature of the Windows.

77. Given Lincoln's failure to disclose this known but non-public information about the defective nature of the Windows – information over which it had exclusive control – and because Plaintiffs and Class Members therefore could not reasonably have known that the Windows were defective, Lincoln is estopped

from relying and should not be allowed to rely on any exception regarding any statutes of limitation that might otherwise be applicable to the claims asserted herein.

78. Pursuant to the doctrine of Equitable Tolling and/or Equitable Estoppel, the period for bringing claims shall not be barred due to the statute of limitations or statute of repose. The interest of justice requires equitable tolling in this case. In applying this doctrine the relevant factors include the claimant's diligence, the claimant's knowledge of the relevant facts and whether these statements misled the claimant. Accordingly, with respect to each and every cause of action and/or Count asserted herein, Plaintiffs expressly plead Equitable Tolling and/or Equitable Estoppel and their application thereto.

**ESTOPPEL FROM PLEADING WARRANTY
LIMITATIONS AND DISCLAIMERS**

79. Lincoln is also estopped from relying on any warranty limitations or disclaimers as a defense to Plaintiffs' and Class Members' claims.

80. By virtue of Lincoln's acts, the Windows installed in Plaintiffs' and Class Members' homes have not lived up to Lincoln's warranties and representations, and given the defective condition of the Windows and the premature deterioration that require unexpected maintenance, wear or replacement, the Windows have not proven to be of value when compared to other types of windows.

81. Lincoln knew or should have known that its Windows were defective in design or manufacture, and the Windows were not fit for their ordinary and intended use, were not merchantable, and failed to perform in accordance with the advertisements, marketing materials and warranties disseminated by Lincoln or with the reasonable expectations of ordinary consumers such as Plaintiff and Class Members.

82. Accordingly, any warranty provided by Lincoln fails of its essential purpose because it purports to warrant that the Windows will be free from defects for a prescribed period of time when in fact the Windows fall far short of the applicable warranty period.

83. Moreover, Lincoln's warranties are woefully inadequate to repair and replace failed Windows, let alone reimburse for any damage suffered to the underlying structure due to the inadequate protection provided by the Windows. The remedies available under Lincoln's warranties are limited to such an extent that they do not provide a minimum adequate remedy.

84. As a result, any time limitations or disclaimers which restrict the remedies encompassed within Lincoln's warranties are unconscionable and unenforceable, and, therefore, Lincoln is estopped from relying upon same.

COUNT I
NEGLIGENCE

85. Plaintiffs on behalf of themselves all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

86. At all times material hereto, Lincoln designed and manufactured the Windows.

87. Lincoln had a duty to Plaintiffs and to members of the class to design and manufacture Windows that were free of latent defects that would cause the Windows to leak and cause damage to Plaintiffs' home such as the wall cavity and the structure of the home.

88. Lincoln had a duty to Plaintiffs and to members of the class to test the Windows to ensure adequate performance of the windows for a reasonable period of use.

89. Lincoln had a duty to Plaintiffs and to class members to ensure that the window components were suitable, either by testing or by verifying third-party test results.

90. Lincoln had a duty to Plaintiffs and to members of the class to ensure that the Windows complied with all applicable industry standards and all applicable building codes.

91. Lincoln failed to exercise ordinary and reasonable care in the design and manufacture of the Windows and in determining whether the Windows that it sold, and continued to sell, contained a latent defect that would result in the failure of the Windows to perform as reasonably expected.

92. Lincoln failed to exercise ordinary and reasonable care in the design and manufacture of the Windows and breached the foregoing duties.

93. Lincoln breached its duty to the Plaintiffs and class members to test the Windows to ensure adequate performance of the Windows for a reasonable period of use.

94. Lincoln breached its duty to Plaintiffs and to class members to ensure that the window components were suitable, either by testing or by verifying third-party test results.

95. Lincoln breached its duty to Plaintiffs and to members of the class to ensure that the Windows complied with industry standards and the applicable building codes.

96. Lincoln breached its duty to Plaintiffs and to members of the class to forewarn purchasers, installers, and users regarding the known risk of product failures.

97. The negligence of Lincoln, its agents or employees, include the foregoing, as well as the following acts and/or omissions:

- a. designing, manufacturing, processing, distributing, delivering, supplying, inspecting, marketing and/or selling Windows without adequately and thoroughly testing them to all applicable standards and building codes;
- b. designing, manufacturing, processing, distributing, delivering, supplying, inspecting, marketing and/or selling Windows without adequately testing long term performance;
- c. negligently failing to ensure that the Windows conformed to all applicable standards and building codes; and
- d. concealing information concerning the defects inherent in the Windows from Plaintiffs and the Class members, while knowing that Lincoln's Windows were defective and non-conforming with accepted industry standards and building codes.

98. Plaintiffs and the Class Members have been damaged because the defective Windows do not perform their ordinary purpose of sealing Plaintiffs' home against the elements.

99. Plaintiffs and Class Members have also been damaged as a direct and proximate result of the negligence, carelessness, recklessness, willfulness, and wantonness of Lincoln as aforesaid.

100. As Lincoln's conduct was grossly negligent, reckless, willful, wanton, intentional, fraudulent or the like, Plaintiffs class is entitled to an award of punitive damages against Lincoln.

COUNT II
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

101. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

102. Lincoln entered into contracts with retailers, suppliers and/or contractors to sell its Windows that were to be installed at Plaintiffs' and the Class Members' properties.

103. Plaintiffs and the Class Members are intended third party beneficiaries of those contracts because it was the clear and manifest intent of Lincoln that the contracts were to primarily and directly benefit Plaintiffs and the Class Members.

104. Lincoln warranted that its Windows were merchantable and reasonably fit for their ordinary purpose, and would not cause damage as set forth herein.

105. Lincoln breached the implied warranty of merchantability by selling its Windows that were defective and not reasonably fit for their ordinary purpose.

106. Lincoln's Windows are defective because they cause and continue to cause damage as described more fully herein.

107. As a result of Lincoln's breach of the implied warranty of merchantability, Plaintiffs and the Class Members have suffered and continue to suffer actual and consequential damages.

COUNT III
BREACH OF EXPRESS WARRANTY

108. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

109. After putting their Windows into the stream of commerce, Lincoln expressly represented and warranted that the Windows were appropriate for their intended use and were free from defects and that they conformed to all applicable building codes and industry standards.

110. Lincoln entered into contracts with retailers, Plaintiffs' Builders, Class Members' Builders, suppliers and/or contractors to sell its Windows that were to be installed at Plaintiffs' and the Class members' properties.

111. Plaintiffs and Class members were intended third party beneficiaries of the contracts between Lincoln and their respective Builders.

112. Lincoln's express and written warranties and representations are applicable to the Windows installed in Plaintiffs' homes.

113. Lincoln expressly represented and warranted that the Windows were appropriate for their intended use and free from defects.

114. Lincoln also expressly represented that the Windows conform to all applicable building codes and industry standards.

115. Lincoln has made other representations, as described above, through its website, brochures, marketing materials, and representatives that the Windows are free from defects.

116. The representations and warranties formed part of the basis of the bargain between Lincoln and the purchasers of the Windows, at the time of the sale.

117. These representations, described herein, became part of the basis of the bargain when Plaintiffs, Plaintiffs' builders, Class Members and/or Class Members' builders purchased the Windows and/or purchased the homes containing the Windows.

118. In addition, these representations became part of the basis of the bargain when Plaintiffs and/or Class Members purchased the homes with Lincoln's express representations concerning the standards to which the Windows conformed, and all manufacturers warranties were assigned to Plaintiffs.

119. The limitations of damages contained in the express warranty provisions are harsh, oppressive and one-sided. The limitations related to the amount of damages, the type of remedies available to Plaintiffs and Class Members are unconscionable when Lincoln knows or should have known that there are defects in the design and manufacturing of the Windows.

120. However, despite Lincoln's assurances, as described in detail *supra*, the Windows contain the aforementioned defects and do not conform to all applicable building codes and industry standards and are not free from defects.

121. These aforementioned defects are present when the Windows leave Lincoln's control.

122. Lincoln has been repeatedly put on notice of the defects in the Windows by various methods described above.

123. As Plaintiffs and Class members have defective Windows in their homes, which have not been and would not be sufficiently repaired or replaced by Lincoln, they have not received the value of what the window purchaser bargained for at the time the windows were sold or at the time they were transferred through the sale of the home.

124. Lincoln breached the express warranty by selling its Windows that were defective and not reasonably fit for their ordinary and intended purpose. Further, the Windows did not conform to the express representations contained within the Windows.

125. By its conduct and defective products, Lincoln has breached its express warranty with Plaintiffs and members of the class.

126. In addition, Lincoln has breached its express written warranties by not providing Plaintiffs with Windows which are free from defects and/or by suppressing warranty claims.

127. Lincoln's written warranty is also unconscionable and fails of its essential purpose because it is so replete with limitations, disclaimers and exceptions that it effectively prevents any warranty claim despite the Windows having a known defect when sold.

128. Plaintiffs did not have an opportunity to negotiate or bargain for the terms of the express warranty provisions and any purported limitations contained therein. Upon information and belief, the distributors, contractors, and other customers of Lincoln did not and could not negotiate or bargain for the terms of the express warranty provisions and any purported limitations contained therein. Instead, Lincoln stood in a position of domination and control over the terms.

129. Upon information and belief, Lincoln knew that the Windows had a history of failures, resulting in damage to other property, yet Lincoln failed and omitted to inform its distributors, its customers, Plaintiffs and Class Members on whose residence the Windows were installed.

130. In light of the foregoing, Lincoln's limitations within its warranties are invalid and fail of their essential purpose and/or are unconscionable.

131. The foregoing breaches of express warranty at issue were substantial factors in causing damages to Plaintiffs and Class Members.

132. As a direct and proximate result of Lincoln's breach of the express warranty on the Windows, the Plaintiffs and Class Members have suffered actual and consequential damages.

COUNT IV
UNFAIR AND DECEPTIVE ACTS AND PRACTICES

133. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

134. The Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 PA. CONS. STAT. §§ 201-1 *et seq.* ("the UTPCPL") makes unlawful "Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce."

135. Lincoln is a manufacturer, marketer, seller, and distributor of the Windows.

136. Plaintiffs purchased the Windows primarily for personal, household or family use.

137. Lincoln recklessly, wantonly and willfully violated provisions of the UTPCPL by virtue of the conduct described above and throughout this Complaint.

138. Lincoln made, published, disseminated, circulated, and/or placed before the public, and/or caused to be made, published, disseminated, circulated, or placed before the public, advertisements, announcements, statements, and representations relating to the purchase, sale, and use of the Windows that contained assertions, representations and statements of fact concerning the qualities and characteristics of the Windows.

139. Lincoln made false, deceptive and misleading statements and representations to Plaintiffs and Class Members with the intent of selling and increasing the consumption of the Windows, including false, deceptive and misleading statements concerning the quality, uses, characteristics, and benefits of its Windows.

140. Lincoln's aforementioned assertions, representations and statements of fact concerning the qualities and characteristics of the Windows were untrue, deceptive and misleading, in violation of the UTPCPL, as described throughout this Complaint.

141. Lincoln also made the deceptive and misleading omissions concerning the Windows, as it failed to tell Plaintiffs and Class members, that the Windows were defective, would fail prematurely, were not suitable for use as an exterior Window product, and were otherwise not as warranted and represented by Lincoln.

142. Lincoln also violated the UTPCPL by failing to comply with the terms of a written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services was made. Specifically, the defects in the Windows described herein are defects about which Lincoln is aware but does not remedy.

143. Lincoln also engaged in false, deceptive and misleading acts when it failed to honor its express warranty to all owners of homes with its defective Windows.

144. Moreover, Lincoln improperly provided an express warranty that the Windows would be free from defects in materials and workmanship, which it did not honor; despite knowing that the Windows contained the defects.

145. Lincoln has engaged in unfair and deceptive acts pursuant to UTPCPL by attempting to limit the warranties on Window while actively concealing this fact from purchasers.

146. Lincoln also engaged in false, deceptive and misleading acts when it failed to honor its express warranty to all owners of homes with its defective Windows, while representing on its website that its warranty would extend to subsequent owners of homes.

147. The above referenced misrepresentations, omissions and active concealment concerning the defects in the Windows were material to the

transaction. The misrepresentations and omissions were made with the intent that Plaintiff and the Class Members rely upon them thereby preserving the sale of the sale of Windows and allowing Lincoln to profit from the sales. Otherwise, without the false representations, breaches of warranty and material omissions Lincoln would not have been able to sell the Windows or would have been forced to sell them at a substantial discount.

148. Plaintiffs and the Class members did not know that the Windows were defective and would fail prematurely. Had they known of the defects in the Windows, they would not have purchased the Windows, or they would have negotiated additional coverage. The fact that the Windows prematurely fail is a material fact that any reasonable customer would have considered important in deciding whether to purchase the Windows or a home which included the Windows.

149. Lincoln's violations of the UTPCPL are continuing, with no indication that Lincoln will cease.

150. Because of these unfair and deceptive practices, Lincoln has been unjustly enriched.

151. Under all of these circumstances, Lincoln's conduct in employing these unfair and deceptive trade practices was and is malicious, willful, wanton and outrageous such as to shock the conscience of the community and warrant the imposition of punitive damages.

152. Lincoln's actions impact the public interest because Plaintiffs and members of the Class were injured in exactly the same way as thousands of others who own the Windows as a result of and pursuant to Lincoln's generalized course of deception.

153. Lincoln's false, deceptive and misleading statements caused Plaintiffs and Class members to be deceived and to sustain pecuniary damages, including, but not limited to, the amounts paid for the Windows, the costs incurred to repair or replace the Windows, the loss in the value of their properties, and damage to floors, walls and personal property due to the defects in the Windows.

154. As a direct and proximate result of Lincoln's violations of the UTPCPL, Plaintiffs and Class members have suffered and will continue to suffer ascertainable loss and damages and are entitled to all appropriate relief, including, but not limited to damages, costs, and attorneys' fees.

COUNT V
FRAUDULENT MISREPRESENTATION

155. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

156. Lincoln falsely and fraudulently represented to Plaintiffs, the Class members, and/or the consuming public in general that Lincoln's Windows would be free from defects and fit for their customary and normal use.

157. Lincoln falsely represented to purchasers, consumer, and Window owners that the Windows were warranted against defects in material and workmanship when in fact the Limited Warranty was so limited as to prevent and preclude any warranty protection against the known defect in the Windows.

158. When said representations were made by Lincoln, upon information and belief, they knew those representations to be false and they willfully, wantonly, and recklessly disregarded whether the representations were true.

159. These representations were made by Lincoln with the intent of defrauding and deceiving the Plaintiffs, the Class members and/or the consuming public, all of which evinced reckless, willful, indifference to the safety and welfare of the Plaintiffs and the Class members.

160. At the time the aforesaid representations were made by Lincoln, Plaintiffs and the Class members were unaware of the falsity of said representations and reasonably believed them to be true.

161. In reliance upon said representations, the Plaintiffs' and Class members' properties were built using Lincoln's Windows, which were installed and used on Plaintiffs' and the Class members' properties thereby sustaining damage and injury and/or being at an increased risk of sustaining damage and injury in the future.

162. Lincoln knew and was aware, or should have been aware, that Lincoln's Windows were defective and not fit for their customary and normal use.

163. Lincoln knew, or should have known, that Lincoln's Windows had a potential to, could, and would cause severe damage and injury to property owners.

164. Lincoln brought its Windows to the market and acted fraudulently, wantonly, and maliciously to the detriment of the Plaintiffs and the Class members.

165. By reason of the foregoing, Plaintiffs and the Class members suffered, and continue to suffer, financial damage and injury.

COUNT VI
FRAUDULENT CONCEALMENT

166. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

167. Lincoln knew or should have known that the Windows were defective in design, were not fit for their ordinary and intended use, and performed in accordance with neither the advertisements, marketing materials and warranties disseminated by Lincoln nor the reasonable expectations of ordinary consumers.

168. Lincoln fraudulently concealed from and/or intentionally failed to disclose to Plaintiffs and the Class that the Windows are defective.

169. Lincoln had exclusive knowledge of the defective nature of the Windows at the time of sale. The defect is latent and not something that Plaintiffs or Class members, in the exercise of reasonable diligence, could have discovered independently prior to purchase, because it is not feasible.

170. Lincoln had the capacity to, and did, deceive Plaintiffs and Class members into believing that they were purchasing Windows free from defects.

171. Lincoln undertook active and ongoing steps to conceal the defect. Plaintiffs are aware of nothing in Lincoln's advertising, publicity or marketing materials that disclosed the truth about the defect, despite Lincoln's awareness of the problem.

172. The facts concealed and/or not disclosed by Lincoln to Plaintiffs and the Class members are material facts in that a reasonable person would have considered them important in deciding whether to purchase (or to pay the same price for) the Windows from their builders. Lincoln intentionally concealed and/or failed to disclose material factors for the purpose of inducing Plaintiffs and the Class to act thereon.

173. Plaintiffs and the Class justifiably acted or relied upon the concealed and/or non-disclosed facts to their detriment, as evidenced by their purchase of the Windows.

174. Plaintiffs and Class members suffered a loss of money in an amount to be proven at trial as a result of Lincoln's fraudulent concealment and nondisclosure because: (a) they would not have purchased the Windows on the same terms if the true facts concerning the defective Windows had been known; (b) they paid a price premium due to they would be free from defects; and (c) the Windows did not perform as promised. Plaintiffs also would have initiated this suit earlier had the defect been disclosed to them.

175. By reason of the foregoing, Plaintiffs and the Class members suffered, and continue to suffer, financial damage and injury.

COUNT VII
UNJUST ENRICHMENT

176. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

177. This claim is pled in the alternative to the warranty claims pled herein.

178. Plaintiffs and Class members conferred a benefit on Defendant when they purchased the Windows.

179. Lincoln has been unjustly enriched in retaining the revenues derived from Class members' purchases of the Windows, the retention of which under these circumstances is unjust and inequitable because Lincoln Windows were defective in

design, were not fit for their ordinary and intended use, and performed in accordance with neither the advertisements, marketing materials and warranties disseminated by Lincoln nor the reasonable expectations of ordinary consumers and caused the Plaintiffs and Class members to lose money as a result thereof.

180. Plaintiffs and Class members suffered a loss of money as a result of Lincoln's unjust enrichment because: (a) they would not have purchased the Windows on the same terms if the true facts concerning the defective Windows had been known; (b) they paid a price premium due to the fact the Windows would be free from defects; and (c) the Windows did not perform as promised.

181. Because Lincoln's retention of the non-gratuitous benefit conferred on them by Plaintiffs and Class members is unjust and inequitable, Lincoln must pay restitution to Plaintiffs and the Class members for their unjust enrichment, as ordered by the Court.

182. Plaintiffs and the Class Members are entitled to restitution of, disgorgement of, and/or the imposition of a constructive trust upon, all profits, benefits, and other compensation obtained by the Defendant from its deceptive, misleading, and unlawful conduct.

COUNT VIII
VIOLATION OF MAGNUSON-MOSS ACT

183. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

184. The Magnuson-Moss Consumer Products Liability Act, 15 U.S.C §2301, et seq. (“MMCPWA” or the “Act”) provides a private right of action to purchasers of consumer products against retailers who, *inter alia*, fail to comply with the terms of a written warranty, express warranty and/or implied warranty. As demonstrated above, Lincoln has failed to comply with the terms of its warranties, written, express and implied, with regard to the Windows that it advertised, distributed, marketed and/or sold.

185. Plaintiffs and the members of the Class are “consumers” under the MMCPWA.

186. Lincoln has been given a reasonable opportunity by Plaintiffs and other Class members to cure such failures to comply and has repeatedly failed to do so.

187. By virtue of the foregoing, Lincoln and other members of the Class are entitled to an award of damages and other appropriate relief, including attorneys’ fees.

COUNT IX
DECLARATORY RELIEF 28 U.S.C. § 2201

188. Plaintiffs on behalf of themselves and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

189. Defendant has acted or refused to act on grounds that apply generally to the Declaratory Relief Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole within the meaning of Fed. R. Civ. P. 23(b)(2). Plaintiffs seeks a ruling that:

- a. the Windows have a defect which results in a premature failure and premature rotting of wood component of the sash. The rotting of the wood component may not be detectable until after the warranty provided by Lincoln has expired. The Court finds that this defect is material and requires disclosure for all of these windows;
- b. the Windows have a defect in workmanship and material that allows water to penetrate behind the aluminum clad sash component of the window resulting in premature rotting of the wood component, which rot may progress to adjacent wood components, and that the rotting of the wood component may not be detectable until after the existing warranty provided by Lincoln has expired. The Court declares that all persons who own structures containing Windows are to be provided the best practicable notice of the defect, which cost shall be borne by Lincoln;
- c. Certain provisions of Lincoln's warranty are void as unconscionable;
- d. the limitations on the warranty is removed;

- e. the limitation of the warranty to the date of manufacture, rather than the date of installation, is removed;
- f. Lincoln shall re-audit and reassess all prior warranty claims, including claims previously denied in whole or in part, where the denial was based on warranty or on other grounds, of claims related to wood rot, and pay the full cost of repairs and damages; and
- g. Lincoln will establish an inspection program and protocol, under Court supervision, to be communicated to class members, which will require Lincoln to inspect, upon request, a class member's structure to determine whether wood rot is manifest. Any disputes over coverage shall be adjudicated by a Special Master appointed by the Court and/or agreed to be the parties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for a judgment against Lincoln as follows:

- a. For an order certifying the Classes, pursuant to Fed. R. Civ. P. 23, appointing Plaintiffs as representative of the Classes, and appointing the law firms representing Plaintiffs as Class Counsel;
- b. For compensatory damages sustained by Plaintiffs and the Damages Class;
- c. For equitable and/or injunctive relief for the Declaratory Relief Class;
- d. For payment of costs of suit herein incurred;
- e. For both pre-judgment and post-judgment interest on any amounts awarded;
- f. For punitive damages;

- g. For payment of reasonable attorneys' fees and expert fees as may be allowable under applicable law; and
- h. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs on behalf of themselves and on behalf of the Class Members,
hereby demand a trial by jury as to all issues so triable.

Dated: April 6, 2017

Respectfully submitted,

By: 

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Robert and Carol Golzak and John Karnes

(b) County of Residence of First Listed Plaintiff Lackawanna County, PA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Benjamin F. Johns, Esq., Chimicles & Tikellis LLP 361 W. Lancaster Avenue, Haverford, PA 19041

DEFENDANTS

Lincoln Wood Products, Inc.

County of Residence of First Listed Defendant Lincoln County, WI (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Section 1332(d)(2) (Diversity Jurisdiction)

Brief description of cause: Class Action brought by consumers seeking damages in connection with defective windows

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/06/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Benjamin F. Johns

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [PA Residents Claim Lincoln Wood Products' Windows Are Defective](#)
