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Judge Approves \$2.75M Fee Award in Electrolux Class Action

David Gialanella, New Jersey Law Journal

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In conjunction with a settlement potentially worth as much as \$20 million, plaintiffs lawyers in class litigation against Electrolux over allegedly faulty ice makers have been awarded \$2.75 million in fees.

U.S. District Judge Noel Hillman of the District of New Jersey approved the settlement and fee award on Feb. 10 after granting preliminary approval last October, according to court documents.

The fees are to be split among co-class counsel: Bruce Nagel and Randee Matloff of Nagel Rice in Roseland, and John Poulos and Joseph LoPiccolo of Poulos LoPiccolo in Ocean. The settlement agreement provides for Nagel to determine the fee split between the firms.

The settlement provides that each class member—of which there are an estimated 100,000, according to documents—is entitled to \$100 cash, as well as a \$100 rebate in purchasing any Electrolux product worth \$499 or more. It also creates a \$250,000 reimbursement fund for class members who paid out of pocket for repairs.

Hillman also approved \$32,500 worth of service payments for named plaintiffs in the matter.

The matter, consolidated as *In re Electrolux Home Products Ice Makers Cases*, involved five separate class suits—filed in New Jersey, New York and other states—claiming that the ice makers, rather than providing "ice at your fingertips" as advertised, stopped working only months after purchase and started leaking, causing damage to other parts of refrigerators and surrounding areas.

The New Jersey complaint, *Kuzian v. Electrolux Home Products*, filed in June 2012, listed five models of Electrolux Icon French door and side-by-side units that the Charlotte, North Carolina-based company began making and selling in 2008 and 2009 at prices ranging from \$1,900 to \$3,600.

The named plaintiff, Mariusz Kuzian of Egg Harbor, claimed he spent \$3,000 on a French door/bottom-freezer unit at Sears in November 2009 and followed the use and care instructions.

Nonetheless, the freezer stopped producing ice a year later, he claimed. Sears repaired the unit, though the fix lasted only six months, after which the ice maker ceased working again, and, this

time, the refrigerator's front electronic display stopped working too, Kuzian said.

The complaint also alleged that the refrigerator's interior light stayed on when the door was closed, causing damage to the unit and bringing its internal temperature above what is safe for food storage, leading to at least \$500 in perished groceries.

The problem allegedly was caused by a design defect that "manifests during the expected useful life of the refrigerators, both within and outside applicable warranty periods," requiring costly repairs to and replacements of the products, the suit alleged.

In addition, the complaint alleged, Electrolux knew "or was reckless in not knowing" about the defect, which the company did not correct despite numerous customer complaints.

The plaintiffs urged tolling the statute of limitations because of the latent nature of the alleged defect and the company's allegedly fraudulent conduct.

The suit alleged violations of the New Jersey Consumer Fraud Act, breach of express and implied warranty, and negligent misrepresentation.

Electrolux, by the terms of the settlement, did not admit liability.

Nagel, reached by phone, said, "I think Electrolux stepped up to the plate and made a fair deal for the class."

Poulos and LoPiccolo deferred comment to Nagel.

Electrolux's counsel, Jeffrey Garrod of Orloff, Lowenbach, Stifelman & Siegel in Roseland and Brandon Wisoff of Farella Braun & Martel in San Francisco, didn't respond to call and emails.

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