

FILED  
Superior Court of California  
County of Los Angeles



JUN 20 2014

Sherri R. Carter, Executive Officer/Clerk  
By Aldwin Lim, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL CIVIL WEST

DON VERDEJO, individually and on  
behalf of a class of similarly situated  
persons, *et al.*,

Plaintiffs,

v.

VANGUARD PIPING SYSTEMS, a  
Kansas corporation, *et al.*,

Defendants.

Case No. BC448383

Judge William F. Highberger  
Department: CCW307

~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF  
SETTLEMENT, CERTIFYING PROVISIONAL  
SETTLEMENT CLASS, APPOINTING  
SETTLEMENT CLASS COUNSEL AND  
SUBCLASS COUNSEL, SETTING HEARING  
ON FINAL APPROVAL OF SETTLEMENT,  
AND DIRECTING NOTICE TO THE CLASS

Action Filed: October 28, 2010  
Trial Date: None Set

AND RELATED CROSS-CLAIMS

Pursuant to California Rules of Court Rule 3.769(c), Plaintiffs, on behalf of themselves and a nationwide class of others similarly situated, moved this Court for an Order preliminarily approving their settlement, certifying a provisional settlement class and subclasses, appointing settlement class counsel and subclass counsel, setting a hearing on the final approval of the settlement, and directing notice to the class (the "Motion"). Defendants, Cross-Complainants and

1 Cross-Defendants Vanguard Piping Systems, Inc., Viega, LLC, and VG Pipe LLC (collectively,  
2 “Viega”) joined in Plaintiffs’ request for an order preliminarily approving the Parties’ settlement.  
3 Upon consideration of the Motion, the Parties’ Class Action Settlement Agreement and Release  
4 and all exhibits thereto (collectively, the “Settlement Agreement” or “Settlement”), the materials  
5 previously submitted in this case, the arguments of counsel, and other materials relevant to this  
6 matter, and good cause appearing therefore, **IT IS HEREBY ORDERED:**

7 1. The Court grants preliminary approval of the Settlement based upon the terms set  
8 forth in the Class Action Settlement Agreement and Release filed herewith.

9 2. The terms of the Settlement Agreement are sufficiently fair, reasonable, and  
10 adequate to allow dissemination of notice according to the Notice Plan.<sup>1</sup> The Court approves, as  
11 to form and content, the Notice of Pendency and Proposed Settlement of Class Action (the  
12 “Mailed Notice”), attached as Exhibit 1 to the Settlement Agreement, the Short Form Notice to be  
13 published in leading consumer publications among potential Settlement Class Members, attached  
14 as Exhibit 2 to the Settlement Agreement, the Settlement Claim Form, attached as Exhibit 3 to the  
15 Settlement Agreement, the Postcard Notice, attached as Exhibit 6 to the Settlement Agreement,  
16 and the Letter to Prior Claimants, attached as Exhibit B to the Declaration of Dan Rosenthal  
17 Regarding Settlement Notice Plan. This determination is not a final finding that the Settlement  
18 Agreement is fair, reasonable, and adequate, but instead is a determination that there is reasonable  
19 cause to submit the proposed Settlement Agreement to Settlement Class Members and to hold a  
20 hearing on the fairness of the proposed settlement and on the final approval of the settlement  
21 (“Fairness Hearing”), and ultimately approve the Settlement.

22 3. The Court hereby approves the Notice and provisions for disseminating the above  
23 materials substantially as described in the Notice Plan attached to the Settlement Agreement as  
24 Exhibit 5. These materials (a) provide the best practicable notice, (b) are reasonably calculated,  
25 under the circumstances, to apprise Settlement Class Members of the pendency of the action, the  
26 terms of the proposed settlement, and of their right to appear, object to, or exclude themselves from

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28 <sup>1</sup> To the extent capitalized terms are not defined in this Order, they shall have the meaning  
set forth in the Settlement Agreement.

1 the proposed settlement, (c) are reasonable and constitute due, adequate, and sufficient notice to all  
2 persons entitled to receive notice, and (d) comply fully with the requirements of the California  
3 Rules of Court, the California Code of Civil Procedure, the California Civil Code, the Constitution  
4 of the State of California, the United States Constitution, and any other applicable law.

5 4. The Claims Administrator shall be responsible for providing notice of the  
6 proposed settlement to the Settlement Class Members in accordance with the provisions of the  
7 Settlement Agreement. The Claims Administrator shall mail the Notice and Claim Form to the  
8 known Settlement Class Members and mail Postcard Notices to homeowner insurance providers,  
9 homeowners associations, common interest developments, condominium associations, and similar  
10 entities as per the Notice Plan within twenty (20) days of the entry of this Order. On the same  
11 date, the Claims Administrator shall also mail the Letter to Prior Claimants to the last known  
12 address of all claimants who submitted a valid claim under the prior proposed settlement. Within  
13 fifteen (15) days after the deadline to mail the Notice and Claim Form to Settlement Class  
14 Members, the Claims Administrator shall provide declarations to the Court, with a copy to Class  
15 Counsel, Counsel for the Useful Life Subclass, Counsel for the Clark County Subclass, and  
16 Defense Counsel, attesting to the measures undertaken to provide notice and Claim Forms to the  
17 Settlement Class.

18 5. The Court preliminarily certifies a class for settlement purposes only, consisting of  
19 persons who meet the following criteria:

20 All Persons that own or have owned buildings, homes, residences or any other  
21 structures located in the United States that contain or have ever contained Viega  
22 Brass Fittings. Also included in this class are all such Persons' spouses, joint  
23 owners, heirs, executors, administrators, mortgagees, tenants, creditors, lenders,  
24 predecessors, successors, subsequent owners or occupants, lessees, trusts and  
25 trustees, attorneys, agents, and assigns and all Persons who have vested legal rights  
26 such that they have legal standing and are entitled to assert a claim on behalf of such  
27 Settlement Class Members.

28 Settlement Class Members who own or have owned buildings, homes, residences or  
any other structures located in Clark County, Nevada that contain or have ever  
contained Viega Brass Fittings are also members of the "Clark County Subclass."  
Also included in this subclass are all such Persons' spouses, joint owners, heirs,  
executors, administrators, mortgagees, tenants, creditors, lenders, predecessors,  
successors, subsequent owners or occupants, lessees, trusts and trustees, attorneys,

1 agents, and assigns and all Persons who have vested legal rights such that they have  
2 legal standing and are entitled to assert a claim on behalf of such Clark County  
3 Subclass Members.

4 Settlement Class Members who currently own residential property located in the  
5 following twelve (12) states: Arkansas, Arizona, California, Delaware, Hawaii,  
6 Kansas, Louisiana, Nevada, New Hampshire, Oklahoma, West Virginia and  
7 Wyoming, are also members of the "Useful Life Subclass."

8 The Settlement Class and/or the Clark County Subclass include insurance carriers if  
9 their insured otherwise fall within the foregoing definitions and the insurance carrier  
10 paid insurance claims for a Failure prior to the date of the Preliminary Approval  
11 Order and thereby obtained legally vested subrogation rights.

12 Persons who seek contribution or indemnity from Viega based on past settlements  
13 of, or judgments on, claims with Settlement Class Members, Clark County Subclass  
14 Members, or Useful Life Subclass Members also are members of the Settlement  
15 Class and the respective subclass(es), if applicable, if they paid those settlements  
16 prior to the date of the Preliminary Approval Order and thereby obtained vested  
17 legal rights to pursue such contribution or indemnity claims. To the extent there  
18 may in the future be subrogated insurance carriers or Persons who seek contribution  
19 or indemnity from Viega because of vesting of legal rights that occurs after the date  
20 of the Preliminary Approval Order, they shall not be Settlement Class Members or  
21 members of any subclass, but the rights that they take through a Settlement Class  
22 Member, a Clark County Subclass Member, or a Useful Life Subclass Member  
23 shall be limited by all of the terms, time periods, releases, caps, prohibitions on  
24 overlapping or double recoveries, and other provisions of this Agreement.

25 6. Excluded from the Settlement Class, Useful Life Subclass, and Clark County  
26 Subclass are:

27 (a) Persons who validly and timely exclude themselves, using the procedure set  
28 forth in Paragraph 7.3 of the Settlement Agreement; (b) Persons who have settled  
with, released, or otherwise had claims against adjudicated on the merits against  
Viega that are substantially similar to those alleged in this matter; (c) Persons who  
only have suffered personal injury as a result of the defects alleged; (d) except as  
expressly included, insurers or other providers of extended service contracts or  
warranties for the Settlement Class Structures; and (e) The Honorable William F.  
Highberger and members of his family.

7. If, for any reason, the proposed settlement is not approved, the proposed settlement  
and any order certifying a settlement class or subclass shall be vacated *nunc pro tunc* and the  
Litigation shall proceed as though the Settlement Class, Useful Life Subclass, and Clark County

1 Subclass had never been certified, without prejudice to the Parties' rights to either request or  
2 oppose class certification for purposes of litigation.

3 8. In making the findings set forth in Paragraphs 5 and 6 the Court has exercised its  
4 discretion in conditionally certifying the Settlement Class on a nationwide basis, the Useful Life  
5 Subclass, and the Clark County Subclass. The Court designates Named Plaintiffs Don Verdejo,  
6 Noreen Verdejo, Christina Anderson, Davey Hernandez, William Martinez, Corinne Martinez,  
7 Karen Michaud, Takashi Nishida, Kristin Nishida, Rodney Pyle, and Kim Pyle as the Class  
8 Representatives. The Court further designates Andrew L. Proclivo, Nancy H. Proclivo, Lawrence  
9 Ng, Koren J. Chin-Ng, Talia LaQuintara, Michael Connolly, and Gloria Connolly as the Clark  
10 County Subclass Representatives. The Court further designates Andrew L. Proclivo, Nancy H.  
11 Proclivo, Lawrence Ng, Koren J. Chin-Ng, Don Verdejo, Noreen Verdejo, Christina Anderson,  
12 Davey Hernandez, William Martinez, Corinne Martinez, Karen Michaud, Takashi Nishida,  
13 Kristin Nishida, Rodney Pyle, and Kim Pyle as the Useful Life Subclass Representatives.

14 9. The Court hereby appoints the following attorneys as counsel for the Settlement  
15 Class: Kenneth S. Kasdan and Michael D. Turner of Kasdan Weber Turner LLP, and Graham B.  
16 LippSmith of Girardi Keese, and the successors of these attorneys and law firms. The Court  
17 further appoints the following attorneys as counsel for the Clark County Subclass: Scott K.  
18 Canepa and Terry Riedy of Canepa Riedy & Rubino, Troy L. Isaacson, Robert C. Maddox and  
19 Norberto Cisneros of Maddox, Isaacson & Cisneros, LLP, J. Randall Jones of Kemp, Jones &  
20 Coulthard, LLP, Francis I. Lynch and Charles Hopper of Lynch, Hopper, Salzano & Smith, LLP  
21 and James D. Carraway of Carraway & Associates, LLC. The Court further appoints the  
22 following counsel to represent members of the Useful Life Subclass: Kenneth S. Kasdan and  
23 Michael D. Turner of Kasdan Weber Turner LLP and Graham B. LippSmith of Girardi Keese for  
24 the Useful Life Subclass members in Arkansas, Arizona, California, Delaware, Hawaii, Kansas,  
25 Louisiana, New Hampshire, Nevada (excluding Clark County), Oklahoma, West Virginia and  
26 Wyoming, and Scott K. Canepa and Terry Riedy of Canepa Riedy & Rubino, Troy L. Isaacson,  
27 Robert C. Maddox and Norberto Cisneros of Maddox, Isaacson & Cisneros, LLP, J. Randall  
28 Jones of Kemp, Jones & Coulthard, LLP, Francis I. Lynch and Charles Hopper of Lynch, Hopper,

1 Salzano & Smith, LLP, James D. Carraway of Carraway & Associates, LLC for the Clark County  
2 Useful Life Subclass members. For purposes of these settlement proceedings, the Court finds that  
3 these counsel are competent and capable of exercising their responsibility as Class Counsel,  
4 Counsel for the Useful Life Subclass, and Counsel for the Clark County Subclass.

5 10. The Settlement Agreement is for settlement purposes only. Neither the fact of, any  
6 provision contained in, nor any action taken under the Settlement Agreement shall be construed  
7 as an admission of the validity of any claim, argument claiming offensive collateral estoppel, or  
8 any factual allegation that was or could have been made by Plaintiffs, the Useful Life Subclass  
9 Representatives, the Clark County Subclass Representatives, and Settlement Class Members in  
10 the Action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of  
11 Viega. The Settlement Agreement shall not be offered or be admissible in evidence against Viega  
12 or cited or referred to in any other action or proceeding against Viega, except one (1) brought by  
13 or against the Parties to enforce or otherwise implement the terms of the Settlement Agreement;  
14 (2) involving any Plaintiff, Useful Life Subclass Representative, Clark County Subclass  
15 Representative, or Settlement Class Member to support a defense of *res judicata*, defense of  
16 collateral estoppel, defense of release, or other theory of claim preclusion, issue preclusion, or  
17 similar defense; or (3) involving an attempt to enforce a stay of other litigation pursuant to the  
18 terms set forth in the Settlement Agreement and the Court's Order preliminarily approving the  
19 Settlement Agreement.

20 11. Anyone who wishes to be excluded from the Settlement Class must submit a  
21 written request for exclusion (as described in the various notices and Settlement Agreement and  
22 at [www.verdejosettlement.com](http://www.verdejosettlement.com)) by sending it to the Claims Administrator at the address in  
23 Paragraph 13 by first-class U.S. mail. Requests for exclusion must contain all information  
24 described in the Settlement Agreement, and otherwise meet the requirements set forth in that  
25 agreement. The envelope containing the Request for Exclusion must be postmarked on or before  
26 forty-five (45) days after the mailing of Notice pursuant to the Settlement Agreement.

27 12. Anyone who falls within the Settlement Class definition and does not submit a  
28 Request for Exclusion in complete accordance with the deadlines and other specifications set

1 forth in this Order and the Settlement Agreement shall become a Settlement Class Member and  
2 shall be bound by all proceedings, orders, and judgments of this Court pertaining to the  
3 Settlement Class.

4 13. Any Settlement Class Member who intends to object to the fairness,  
5 reasonableness, or adequacy of the proposed Settlement must mail a written objection to the Claims  
6 Administrator, Kurtzman Carson Consultants LLC, at P.O. Box 43206, Providence, RI 02940-3206  
7 by first-class mail with postage paid. The Claims Administrator will then serve any Objections  
8 received on Class Counsel, Counsel for the Useful Life Subclass, Counsel for the Clark County  
9 Subclass, Defense Counsel, and all other parties due notice in this case by LexisNexis File & Serve  
10 Xpress. The Claims Administrator will also file any Objections received with the Court.  
11 Objections must contain all information described in the Settlement Agreement, and otherwise meet  
12 the requirements of that Agreement. The envelope containing the objection to the Settlement must  
13 be postmarked on or before forty-five (45) days after completion of Notice pursuant to the  
14 Settlement Agreement. Only Settlement Class Members may object to the Settlement.

15 14. Objecting Settlement Class Members must state in writing whether they intend to  
16 appear at the Fairness Hearing(s) either with or without separate counsel. No Settlement Class  
17 Member shall be heard at the Fairness Hearing (whether individually or through separate counsel)  
18 or shall be allowed to object to the Settlement, and no written objections or briefs submitted by  
19 any Settlement Class Member shall be received or considered by the Court at the Fairness  
20 Hearing, unless written Notice of the Settlement Class Member's intention to appear at the  
21 Fairness Hearing and copies of any written objections or briefs shall have been served on the  
22 Claims Administrator at the addresses set forth in Paragraph 13 on or before forty-five (45) days  
23 after the date of the mailing of the Notice. In addition to its obligation to serve and file  
24 objections, the Claims Administrator will also serve any Notices of a Settlement Class Member's  
25 Intention to Appear at the Fairness Hearing and associated briefing received on Class Counsel,  
26 Counsel for the Useful Life Subclass, Counsel for the Clark County Subclass, Defense Counsel,  
27 and all other parties due notice in this case by LexisNexis File & Serve Xpress. The Claims  
28 Administrator will also file any such Notices of a Settlement Class Member's intention to appear

1 at the Fairness Hearing and associated briefing with the Court by filing such documents directly  
2 or arranging for such documents to be filed by Class Counsel or Defense Counsel. Settlement  
3 Class Members who fail to file and serve timely written objections in the manner specified above  
4 shall be deemed to have waived any objections and shall be foreclosed from making any  
5 objection (whether by appeal or otherwise) to the settlement.

6 15. Class Counsel, Counsel for the Useful Life Subclass, and Counsel for the Clark  
7 County Subclass shall file with the Court their petitions for payment of attorney fees and  
8 reimbursement of litigation costs and expenses fifteen (15) days prior to the deadlines for  
9 objections and Notices of Intent to Appear specified above. These requests shall be consistent  
10 with the provisions of Section 9 of the Settlement Agreement.

11 16. Seven (7) days prior to the date set for the Fairness Hearing, Plaintiffs, Useful Life  
12 Subclass Representatives, and Clark County Subclass Representatives, and Viega shall file their  
13 briefs in support of settlement approval. Plaintiffs, Useful Life Subclass Representatives, Clark  
14 County Subclass Representatives, and Viega shall concurrently file responses to objections made  
15 by Settlement Class Members.

16 17. On September 17, 2014 at 11am. the Court will hold the Fairness Hearing. It shall  
17 be held in Department 307 of the Los Angeles County Superior Court, located at 600 South  
18 Commonwealth Avenue, Los Angeles, CA 90005. The Fairness Hearing may be continued or  
19 rescheduled by the Court with notice to Class Counsel, Counsel for the Useful Life Subclass,  
20 Counsel for the Clark County Subclass, and Defense Counsel and to any objecting Settlement  
21 Class Member who has filed a Notice of Intention to Appear in accordance with Paragraph 14 of  
22 this Order. At the Fairness Hearing, or as soon thereafter as practicable, the Court will determine  
23 whether the proposed settlement is fair, reasonable, and adequate and whether it should be  
24 approved by the Court. At the Fairness Hearing, the Court will also consider the amount of  
25 attorney fees and expenses that should be awarded to Class Counsel, Counsel for the Useful Life  
26 Subclass, and Counsel for the Clark County Subclass. If appropriate, the Court will issue a Final  
27 Order and Judgment memorializing its decision, in the form contemplated by the Settlement  
28 Agreement.

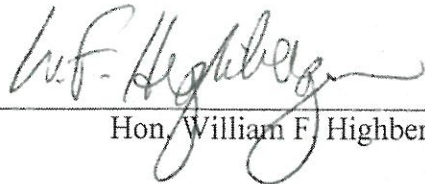


1           18. Pending further orders by this Court, all proceedings in this case and all other  
2 cases raising related issues shall be stayed, as to all claims concerning Viega Brass Fittings, except  
3 for proceedings pursuant to this Order or as necessary to effectuate the dismissal of any Related  
4 Action. All members of the Settlement Class who do not request exclusion from the Settlement  
5 Class in accordance with this Order and the Settlement Agreement shall be enjoined from  
6 commencing and thereafter prosecuting any action, suit, proceeding, claim, or cause of action  
7 (except those based on or relating to personal injury or wrongful death), in any jurisdiction or court  
8 against Viega relating to or arising out of the subject matter of this action.

9           19. Class Counsel, Counsel for the Useful Life Subclass, Counsel for the Clark County  
10 Subclass, and Defense Counsel are authorized to establish other means necessary to effectuate the  
11 terms of the Settlement Agreement.

12           **IT IS SO ORDERED.**

13 Dated: 6/20, 2014

  
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Hon. William F. Highberger