

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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DONALD R. ROESSLER, et al.,	:	CIVIL ACTION
	:	NO. 99-141
Plaintiffs,	:	
v.	:	
	:	
NATIONWIDE MUTUAL INSURANCE	:	
COMPANY,	:	
Defendant.	:	
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NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION

THIS NOTICE AFFECTS YOUR RIGHTS. YOU ARE HEREBY NOTIFIED, PURSUANT TO RULE 23 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND AN ORDER OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, OF THE PENDENCY AND PROPOSED SETTLEMENT OF A CLASS ACTION (HEREINAFTER REFERRED TO AS THE "ACTION") BROUGHT ON BEHALF OF A CLASS (HEREINAFTER THE "CLASS") CONSISTING OF THE FOLLOWING PERSONS AND DEFINED AS FOLLOWS (THE "CLASS DEFINITION"):

ALL HOMEOWNERS LOCATED WITHIN THE COMMONWEALTH OF PENNSYLVANIA, INSURED UNDER POLICIES OF INSURANCE ISSUED BY NATIONWIDE MUTUAL FIRE INSURANCE COMPANY OR ITS SUBSIDIARIES AND AFFILIATES, WHICH WERE IN EFFECT ON OR AFTER DECEMBER 20, 1992, WHO HAVE SUBMITTED CLAIM OR CLAIMS FOR PROPERTY DAMAGE TO THEIR PENNSYLVANIA HOMES AS A RESULT OF A LOSS CAUSED BY WATER OR STEAM ORIGINATING FROM A SYSTEM OR APPLIANCE (AND WHERE THE OCCURRENCE CAUSING THE LOSS TOOK PLACE ON OR AFTER DECEMBER 20, 1992) WHEREIN NATIONWIDE REFUSED TO PAY BENEFITS BASED UPON APPLICATION OF ENDORSEMENT 3358 AND/OR 3358-A OF THE HOMEOWNERS POLICY OF INSURANCE.

Please read this Court-Ordered Class Action Notice carefully.

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, notice is hereby given that a hearing will be held at 9:00 a.m. on March 28, 2002, before the Honorable Eduardo Robreno at Courtroom 12-A, 601 Market Street, Philadelphia, Pennsylvania, for the purpose of determining whether the proposed settlement of this litigation (the "Settlement") should be approved by the Court as fair, reasonable and adequate to the Class, and to consider plaintiffs' counsels' request for counsel fees and reimbursement of expenses.

You have been identified by Nationwide's records as a member of the Class. **YOU ARE NOT BEING SUED.** If the Settlement is approved by the Court, and if you sign and return the enclosed Certification, and Proof of Claim Form, your potential entitlement to a share in the Settlement Fund will be considered.

THIS IS THE ONLY NOTICE YOU WILL RECEIVE REGARDING THE PROPOSED SETTLEMENT AND HEARING. PLEASE READ THIS NOTICE CAREFULLY.

BRIEF DESCRIPTION OF THE LITIGATION

In December of 1998, homeowners Donald and Leona Roessler and homeowners Robert and Diane Donahue filed lawsuits against Nationwide Mutual Fire Insurance Company in the Philadelphia and Bucks County Courts of Common Pleas, respectively. They both brought suit against Nationwide on behalf of not only themselves, but also on behalf of all others similarly situated. Nationwide removed both cases to the United States District Court for the Eastern District of Pennsylvania, where the two cases were initially consolidated for discovery purposes, and are also consolidated for the purposes of the Settlement.

For the purposes of this Settlement, please be advised that the named plaintiffs brought their action on behalf of a class consisting of Pennsylvania homeowners who purchased homeowners insurance from Nationwide Mutual Insurance Company and or any other "Nationwide" company or affiliate or subsidiary selling homeowners insurance in the Commonwealth of Pennsylvania (under the designations including, but not limited to "Nationwide Insurance," and or "Nationwide Mutual Insurance Company" and or "Nationwide Mutual Fire Insurance Company" and or "Nationwide Group" and or "Nationwide Insurance Enterprise") containing the Amendatory Endorsement Form 3358, 3358-A or an endorsement comparable to Forms 3358 or 3358-A, and who suffered loss or property damage to their home(s) as a result of loss caused by water or steam originating from a system or appliance, and wherein the Defendant, Nationwide, did not cover all or part of the loss or property damage including but not limited to the cost of tearing out and replacing any part of the building necessary to repair or replace the system or appliance.

If you are a homeowner located within the Commonwealth of Pennsylvania who was issued a policy of insurance by Nationwide (or one of the Nationwide affiliates or subsidiaries) containing the Amendatory Endorsement 3358, 3358-A or an endorsement comparable to Forms 3358 or 3358-A, and who suffered between December 20, 1992 and the present, a loss or property

damage to your home(s) as a result of a loss caused by water or steam originating from a system or appliance, wherein the Defendant refused to cover all or part of the loss or property damage, including but not limited to the cost of tearing out and replacing any part of the building necessary to repair or replace the system or appliance, then you may be considered a member of the Settlement Class. If the Settlement is approved by the Court, you may be eligible to receive payments from Nationwide as described below.

The parties to the consolidated actions have agreed to request approval by the Court of the Settlement. In so doing, they have considered, among other things, the following matters: 1) the complexity and potential duration of the litigation; 2) the stage of the proceedings; 3) the potential for success by either party regarding both liability and damages; 4) the risks of maintaining the actions; and 5) the range of reasonableness of the settlement in light of the likelihood of potential recoveries and the risks of litigation.

PLAINTIFFS' COUNSEL

Plaintiffs' counsel are Jonathan Wheeler, Esq., One Penn Center – Suite 1270, 1617 JFK Boulevard, Philadelphia, PA 19103 and Joseph A. Zenstein, Esq., Noble Plaza, Suite 217, 801 Old York Road, Jenkintown, PA 19046.

SUMMARY OF THE PROPOSED SETTLEMENT

On or about October 30, 2000, Plaintiffs and Defendant Nationwide, through their counsel, entered into a Stipulation of Settlement (the "Stipulation") which, as amended, if finally approved by the Court, will result in the dismissal of all claims that were or could be asserted against Nationwide (by insured homeowners regarding their own homes, but not including properties rented to others) regarding a loss caused by water or steam originating from a system or appliance which was denied in whole or in part based upon that portion of Endorsement 3358 or 3358-A (or any comparable endorsement) to the Nationwide insurance policy, and described more fully in the Class Definition in the first paragraph of this Notice. The Stipulation sets forth the terms of the Settlement. It is on file with the United States District Court for the Eastern District of Pennsylvania, and available for inspection as described below.

In summary, the Stipulation, as amended, provides that in settlement of partial or whole unpaid claims for damages caused by water or steam originating from a system or appliance (including the costs for access to the system or appliance) that were asserted and submitted to Nationwide, but not paid in part or in whole because of an assertion by Nationwide of Endorsement 3358 or 3358-A (or an endorsement similar to 3358 or 3358-A), Defendant will establish a Settlement Fund by depositing monies with the Premier Bank in a special account. The Settlement Fund will consist of the initial deposit plus any interest earned thereon, a sum larger than the estimated costs of access and repair at issue.

The Settlement Fund amount has been negotiated by counsel for Plaintiffs and counsel for Nationwide following significant review and analysis by experts. Initially, Plaintiffs' counsel, based upon preliminary review of claims files by their expert property adjustment contractor, asserted that a substantial number of claims would fall within the proposed Settlement Class. Nationwide then retained an expert statistician and a property adjustment contractor to review the matter. These experts are of the opinion that only a small percentage of claims would fall into the potential Settlement Class and qualify for benefits under the terms of the proposed Settlement. After review of the data and opinions submitted, Plaintiffs' counsel are in agreement that the numbers proposed by Nationwide's experts more accurately reflect the potential size of the Settlement Class and the amount of benefits potentially payable to members of the Class.

The Settlement Fund shall be subject to reduction by whatever award the Court may make to Plaintiffs' counsel for their counsel fees and for reimbursement of their expenses incurred in prosecuting the Action for the past three (3) years, and for time, costs and expenses incurred in connection with the notice and administration of the Settlement. The remainder of the Settlement Fund will be distributed and/or returned to the Defendant as explained below.

If the proposed Settlement is approved, the Court will enter a judgment dismissing the action with prejudice on the merits, and releasing any and all claims that the Class Members asserted, or could have asserted in the action, limited to claims that relate to access and repairs for the Class as described in the Class Definition in the first paragraph of this Notice.

If the Court does not approve the proposed Settlement, or if the Stipulation is otherwise terminated in accordance with its terms, then the rights and duties of the parties to the Action will revert to their status as of the date and time immediately prior to the execution of the Stipulation without prejudice to any party.

DISTRIBUTION OF SETTLEMENT FUND

The "Net Settlement Fund" is the remainder of the Settlement Fund after deducting Plaintiffs' counsel's fees and expenses, the costs of notice and administration of the Settlement, and other expenses to the extent permitted by the Court.

THEREFORE, AS A REQUIREMENT OF RECEIVING PAYMENT, CLASS MEMBERS MUST COMPLETE AND SIGN THE ENCLOSED CERTIFICATION AND PROOF OF CLAIM FORM, ALONG WITH THE SUPPORTING REPAIR AND ACCESS BILLS, RECEIPTS OF PAYMENT FOR REPAIRS AND OR ACCESS, OR CONTEMPORANEOUS ESTIMATES OF THE COSTS OF REPAIRS AND OR ACCESS. THE COMPLETED FORM (ALONG WITH SUPPORTING BILLS, RECEIPTS AND OR ESTIMATES) MUST BE RETURNED POSTMARKED NO LATER THAN APRIL 12, 2002, AND MAILED TO NATIONWIDE PENNSYLVANIA HOMEOWNERS POLICY HOLDER SETTLEMENT, P.O. BOX 360480, COLUMBUS, OH, 43236, IN ORDER FOR YOU TO BE CONSIDERED FOR ENTITLEMENT TO PAYMENT OUT OF THE SETTLEMENT FUND.

After receipt of the completed Form/Certification and any supporting billing information you submit, the Net Settlement Fund will be distributed by check to each Class Member based on the amount of unpaid repair and or access costs presented; however, in no event will any payment exceed the coverage provided for the insured house in question (at the time of the damage in question) under the policy of insurance.

SETTLEMENT HEARING

Pursuant to the Court's Order dated January 29, 2002, a hearing (the "Settlement Hearing") will be held at Courtroom 12-A, 601 Market Street, Philadelphia, Pennsylvania at 9:00 a.m. on March 28, 2002 before the Honorable Eduardo Robreno. The purpose of the Settlement Hearing will be to determine whether the proposed Settlement of the Action as set forth in the Stipulation is fair, reasonable and adequate to the Class, and thus whether the Stipulation should be approved by the Court, and the Action dismissed in its entirety on the merits and with prejudice.

The Court will also consider at the Settlement Hearing the request of Plaintiffs' attorneys for an award of attorneys' fees and reimbursement of expenses. Plaintiffs' attorneys intend to apply to the Court for an award of counsel fees and for the reimbursement of expenses for their services during the three (3) years which they have prosecuted this Action. Plaintiffs' counsel will seek counsel fees in an amount not to exceed a total of \$2 million, (or 25% of the Settlement Fund) plus the out-of-pocket expenses of counsel for the Roesslers and the Donahues. The Settlement Hearing may be adjourned by the Court without further notice to the Class.

At the Settlement Hearing, any Class Member may appear in person or by duly authorized counsel and be heard in support of, or in opposition to, the certification of a mandatory class, the fairness, reasonableness or adequacy of the proposed Settlement, and/or any requested allowance of plaintiffs' counsel fees, costs and disbursements. However, no Class Member or counsel shall be heard at the Settlement Hearing, and no paper, brief or evidence submitted by any such person shall be received or considered by the Court, unless such person, on or before March 14, 2002 files with the Court and serves upon the counsel designated below, a notice of his or her intention to appear, and all papers he or she intends to present to the Court in support of his or her position, together with proof of service of notice and papers upon each of the following:

Jonathan Wheeler, Esq.
Law Offices of Jonathan Wheeler, P.C.
One Penn Center – Suite 1270
1617 JFK Boulevard
Philadelphia, PA 19103
Counsel for Roessler Plaintiffs

James C. Haggerty, Esq.
Swartz, Campbell & Detweiler
1601 Market Street (34th Floor)
Philadelphia, PA 19103
Counsel for Nationwide

Joseph Zenstein, Esq.
Zenstein & Gallant, P.C.
801 Old York Road, Suite 217
Jenkintown, PA 19046
Counsel for the Donahue Plaintiffs

Robert T. Horst, Esq.
Nelson, Levine, de Luca & Horst
512 Township Line Road, Suite 280
Blue Bell, PA 19422
Counsel for Nationwide

Class Members who do not oppose the proposed Settlement or the request for attorneys' fees and expenses do not need to appear at the Settlement Hearing or take any other action to indicate their position regarding the Settlement.

ADDITIONAL INQUIRIES AND EXAMINATION OF PAPERS

The foregoing is only a summary of the Action, the proposed Settlement and the matters related thereto. For more detailed information, you may inspect the Amended Stipulation and related papers on file in the action, which may be inspected during regular business hours at the Office of the Clerk of the District Court for the Eastern District of Pennsylvania, 601 Market Street, 2nd Floor, Philadelphia, Pennsylvania.

If you have any questions with respect to this Notice, or to the Settlement or the action generally, you should call toll-free, 1(888) 890-8175, or write to Nationwide Pennsylvania Homeowners Policy Holder Settlement, P.O. Box 360480, Columbus, OH 43236, or raise them with your own attorney or advisor, or direct them, in writing, to Plaintiffs' Counsel noted above. Do not contact the Court.

DATED: January 29, 2002

BY THE COURT:
Eduardo Robreno, J.