

Attachment 2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

JACQUELYN D. AJOSE,)
KATHY SMITH, SHARON KURTZ,)
PATRICIA EVETT, & JAMES L.)
BOYLAND) No. 14-cv-01707
on behalf of themselves and all others)
similarly situated,)
) CLASS ACTION
)
Plaintiffs,)
)
v.)
)
INTERLINE BRANDS, INC.,)
)
)
Defendant.)

DECLARATION OF STEPHANIE J. FIERECK, ESQ.
ON IMPLEMENTATION OF CAFA NOTICE

I, STEPHANIE J. FIERECK, ESQ., hereby declare and state as follows:

1. My name is Stephanie J. Fiereck, Esq. I am over the age of 21 and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am the Legal Notice Manager for Epiq Class Action & Claims Solutions Inc. (“Epiq”), a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans.
3. Epiq is a firm with more than 20 years of experience in claims processing and settlement administration. Epiq’s class action case administration services include coordination of all notice requirements, design of direct-mail notices, establishment of fulfillment services, receipt and processing of opt-outs, coordination with the United States Postal Service, claims database management, claim adjudication, funds management and distribution services.
4. The facts in this Declaration are based on what I personally know, as well as information provided to me in the ordinary course of my business by my colleagues at Epiq.

DECLARATION OF STEPHANIE J. FIERECK, ESQ.
ON IMPLEMENTATION OF CAFA NOTICE

CAFA NOTICE IMPLEMENTATION

5. At the direction of counsel for the Defendant Interline Brands, Inc., 57 officials, which included the Attorney General of the United States and the Attorneys General of each of the 50 states, the District of Columbia and the United States' Territories were identified to receive the CAFA notice.

6. Epiq maintains a list of these state and federal officials with contact information for the purpose of providing CAFA notice. Prior to mailing, the names and addresses selected from Epiq's list were verified, then run through the Coding Accuracy Support System ("CASS") maintained by the United States Postal Service ("USPS").¹

7. On May 4, 2018, Epiq sent 57 CAFA Notice Packages ("Notice"). The Notice was mailed by certified mail to 56 officials, including the Attorneys General of each of the 50 states, the District of Columbia and the United States' Territories. The Notice was also sent by United Parcel Service ("UPS") to the Attorney General of the United States. The CAFA Notice Service List (USPS Certified Mail and UPS) is attached hereto as **Attachment 1**.

8. The materials sent to the Attorneys General included a cover letter, which provided notice of the proposed settlement of the above-captioned case. The cover letter is attached hereto as **Attachment 2**.


9. The cover letter was accompanied by a CD, which included the following:
- A. The Complaint and First Amended Complaint;
 - B. Plaintiffs' Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing ("Motion") [ECF No. 242], along with the [Proposed] Order Granting Preliminary Approval of Class Action

¹ CASS improves the accuracy of carrier route, 5-digit ZIP®, ZIP + 4® and delivery point codes that appear on mail pieces. The USPS makes this system available to mailing firms who want to improve the accuracy of postal codes, i.e., 5-digit ZIP®, ZIP + 4®, delivery point (DPCs), and carrier route codes that appear on mail pieces.

Settlement; Certification of Settlement Class; and Approval of Form and Content of Proposed Notice that accompanied the Motion [ECF No. 242-1], which were filed on April 24, 2018;

- C. Plaintiffs' Memorandum of Law in Support of Their Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing [ECF No. 243], which was also filed on April 24, 2018.
- D. Declaration of Simon Bahne Paris in Support of Plaintiffs' Memorandum of Law in Support of Their Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing (with Exhibits) ("Paris Decl."), which was also filed on April 24, 2018.
- E. The proposed form of notices to Class Members about the settlement of the *Ajose* Action and their right to request exclusion from the class are attached as exhibits to the accompanying Settlement Agreement. *See* Paris Decl., Ex. A. at Exs. A-C.
- F. The Settlement Agreement.
- G. A report that reflected Interline's calculation of the potential number of Toilet Connectors and Settlement Class Members in each state (including the District of Columbia) and a projection of the number of property damage claims in each state during the Damage Claims Period.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 4, 2018.


Stephanie J. Fiereck, Esq.

DECLARATION OF STEPHANIE J. FIERECK, ESQ.
ON IMPLEMENTATION OF CAFA NOTICE

Attachment 1

**CAFA Notice Service List
USPS Certified Mail**

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Jahna Lindemuth	PO Box 110300		Juneau	AK	99811
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Leslie Carol Rutledge	323 Center St Ste 200		Little Rock	AR	72201
Office of the Attorney General	Mark Brnovich	2005 N Central Ave		Phoenix	AZ	85004
Office of the Attorney General	CAFA Coordinator	Consumer Law Section	455 Golden Gate Ave Ste 11000	San Francisco	CA	94102
Office of the Attorney General	Cynthia Coffman	Ralph L Carr Colorado Judicial Center	1300 Broadway 10th Fl	Denver	CO	80203
Office of the Attorney General	George Jepsen	55 Elm St		Hartford	CT	06106
Office of the Attorney General	Karl A. Racine	441 4th St NW		Washington	DC	20001
Office of the Attorney General	Matt Denn	Carvel State Office Bldg	820 N French St	Wilmington	DE	19801
Office of the Attorney General	Pam Bondi	State of Florida	The Capitol PL-01	Tallahassee	FL	32399
Office of the Attorney General	Chris Carr	40 Capitol Square SW		Atlanta	GA	30334
Department of the Attorney General	Russell Suzuki	425 Queen St		Honolulu	HI	96813
Iowa Attorney General	Thomas J Miller	1305 E Walnut St		Des Moines	IA	50319
Office of the Attorney General	Lawrence G Wasden	700 W Jefferson St Ste 210	PO Box 83720	Boise	ID	83720
Office of the Attorney General	Lisa Madigan	100 W Randolph St		Chicago	IL	60601
Indiana Attorney General's Office	Curtis T Hill Jr	Indiana Government Center South	302 W Washington St 5th Fl	Indianapolis	IN	46204
Office of the Attorney General	Derek Schmidt	120 SW 10th Ave 2nd Fl		Topeka	KS	66612
Office of the Attorney General	Andy Beshear	Capitol Ste 118	700 Capitol Ave	Frankfort	KY	40601
Office of the Attorney General	Jeff Landry	1885 N Third St		Baton Rouge	LA	70802
Office of the Attorney General	Maura Healey	1 Ashburton Pl		Boston	MA	02108
Office of the Attorney General	Brian E. Frosh	200 St Paul Pl		Baltimore	MD	21202
Office of the Attorney General	Janet T Mills	6 State House Sta		Augusta	ME	04333
Department of Attorney General	Bill Schuette	PO Box 30212		Lansing	MI	48909
Office of the Attorney General	Lori Swanson	445 Minnesota St	Suite 1400	St Paul	MN	55101
Missouri Attorney General's Office	Josh Hawley	PO Box 899		Jefferson City	MO	65102
MS Attorney General's Office	Jim Hood	Walter Sillers Bldg	550 High St Ste 1200	Jackson	MS	39201
Office of the Attorney General	Tim Fox	Department of Justice	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Wayne Stenehjem	State Capitol	600 E Boulevard Ave Dept 125	Bismarck	ND	58505
Office of the Attorney General	Doug Peterson	2115 State Capitol		Lincoln	NE	68509
Office of the Attorney General	Gordon MacDonald	NH Department of Justice	33 Capitol St	Concord	NH	03301
Office of the Attorney General	Gurbir S Grewal	8th Fl West Wing	25 Market St	Trenton	NJ	08625
Office of the Attorney General	Hector Balderas	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	Adam Paul Laxalt	100 N Carson St		Carson City	NV	89701
Office of the Attorney General	Eric T Schneiderman	The Capitol		Albany	NY	12224
Office of the Attorney General	Mike DeWine	30 E Broad St 14th Fl		Columbus	OH	43215
Office of the Attorney General	Mike Hunter	313 NE 21st St		Oklahoma City	OK	73105
Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
Office of the Attorney General	Josh Shapiro	16th Fl Strawberry Square		Harrisburg	PA	17120
Office of the Attorney General	Peter Kilmartin	150 S Main St		Providence	RI	02903
Office of the Attorney General	Alan Wilson	Rembert Dennis Office Bldg	1000 Assembly St Rm 519	Columbia	SC	29201
Office of the Attorney General	Marty J Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
Office of the Attorney General	Herbert H. Slatery III	PO Box 20207		Nashville	TN	37202
Office of the Attorney General	Ken Paxton	300 W 15th St		Austin	TX	78701
Office of the Attorney General	Sean D. Reyes	Utah State Capitol Complex	350 North State St Ste 230	Salt Lake City	UT	84114
Office of the Attorney General	Mark R. Herring	202 North Ninth Street		Richmond	VA	23219
Office of the Attorney General	TJ Donovan	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 Fifth Avenue	Suite 2000	Seattle	WA	98104
Office of the Attorney General	Brad D. Schimel	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrissey	State Capitol Complex	Bldg 1 Room E 26	Charleston	WV	25305
Office of the Attorney General	Peter K Michael	2320 Capitol Avenue		Cheyenne	WY	82002
Department of Legal Affairs	Talauega Eleasalo V. Ale	Executive Office Building	3rd Floor	Pago Pago	AS	96799
Attorney General Office of Guam	Elizabeth Barrett-Anderson	ITC Building	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	Administration Bldg	PO Box 10007	Saipan	MP	96950
PR Department of Justice	Wanda Vazquez Garced	Apartado 9020192		San Juan	PR	00902
Department of Justice	Claude Walker	34-38 Kronprindsens Gade	GERS Bldg 2nd Fl	St Thomas	VI	00802

CAFA Notice Service List

UPS

Company	FullName	Address1	Address2	City	State	Zip
US Department of Justice	Jeff Sessions	950 Pennsylvania Ave NW		Washington	DC	20530

Attachment 2

Mark A. Salky
Tel: (305) 579-0816
Email: salkym@gtlaw.com

May 4, 2018

VIA CERTIFIED MAIL OR UPS

Re: Notice of Proposed Class Action Settlement Pursuant to the Class Action Fairness Act (28 U.S.C. § 1715)

Dear Sir or Madam:

We write on behalf of Interline Brands, Inc. (“Interline”) pursuant to 28 U.S.C. § 1715 (the Class Action Fairness Act or “CAFA”) to notify you of a proposed class action settlement (the “Proposed Settlement”) between Interline and a putative nationwide class of consumers arising from the case captioned as *Jacquelyn Ajose, et al. v. Interline Brands, Inc.*, U.S. District Court for the Middle District of Tennessee, Case No. 14-cv-01707 (the “Ajose Action”).¹

The Ajose Action was filed on August 20, 2014, by putative class representative Jacquelyn Ajose. Plaintiff Ajose, a resident of the State of Pennsylvania, experienced property damage in her home allegedly due to flooding caused by the failure of a plastic Coupling Nut on a DuraPro™ Toilet Connector (“Toilet Connector”) that Interline distributed. These Toilet Connectors are used to connect a toilet fill valve to a water supply source. The Complaint alleges that the Coupling Nuts on these Toilet Connectors are defective because they fracture and fail at the base of the Coupling Nut, resulting in damages sustained by Plaintiff Ajose and similarly-situated members of the putative Class. Plaintiff Ajose also alleged that Interline failed to adequately warn customers of the risk of overtightening and/or using a tool to tighten the Coupling Nut to the base of the toilet. Plaintiff Ajose asserted these claims on behalf of herself and a putative nationwide class of consumers, seeking relief including but not limited to damages, injunctive relief, attorneys’ fees, and costs. Plaintiff Ajose amended her complaint on August 15, 2015, which, among other things, added four new proposed class representatives residing in Colorado (Kathy Smith), Texas (Sharon Kurtz), Arizona (Patricia Evett), and Florida (James L. Boyland) (together with Plaintiff Ajose, “Plaintiffs”).

Interline has denied Plaintiffs’ claims in every material respect and maintained that failures of the Coupling Nuts on these Toilet Connectors were not caused by alleged defects, but rather by improper installation and misuse. Interline has also asserted that many of the failed Toilet Connectors are in use longer than their expected lifespan (approximately 7 to 10 years), that the known failure rate of the Toilet Connectors—regardless of age—has nonetheless been very low (about 0.0219 percent of the roughly 2.925 million sold), and that there is no common defect resulting in the failure of the Coupling Nut on the Toilet Connectors.

¹ All capitalized terms used herein shall have the same definition as those in the Settlement Agreement which accompanies this letter.

In September 2016, Plaintiffs and Interline participated in a formal mediation session with retired federal Magistrate Judge Diane M. Welsh, an experienced and respected mediator. That mediation proved unsuccessful. After significant fact and expert discovery had been completed, Plaintiffs and Interline reconvened for a second formal mediation session in October 2017, with a private mediator, Robert Kaplan, Esq. The parties reached a settlement in principle at this second mediation, subject to, among other things, Interline's ability to reach an agreement with its insurance carriers on an agreement to fund the settlement and an agreement with certain subrogating insurance companies to resolve similar existing claims in four "bundled" cases pending in state court in New Jersey. After months of additional arm's length negotiations, the parties subsequently reached agreement on the terms of the Settlement Agreement, enclosed with this letter, setting forth the Proposed Settlement (for the Total Settlement Amount of \$16.5 million), which the parties expect to be fully executed in the coming days—once the agreements between Interline and its insurance carriers, and between Interline and the subrogating insurance companies, are finalized. Plaintiffs filed their motion for preliminary approval of the Proposed Settlement on April 24, 2018.

As detailed in the Proposed Settlement, the following individuals are included in the Settlement Class:

All Persons who own or owned, or lease or leased, a residence or other structure located in the United States containing a Toilet Connector, or who otherwise suffer or have suffered Property Damage from the failure of a Coupling Nut on a Toilet Connector.²

Interline has agreed to establish a Common Damages Fund against which Settlement Class Members can make claims for a Replacement Remedy and a Property Damage Remedy, as described in detail below. Interline will pay or cause to be paid 40% of the Total Settlement Amount balance (after payment of (i) the cost of the Notice Plan; (ii) the estimated cost/expense of Claim Administration; (iii) the legal costs/expense of Class Counsel (including without limitation any attorneys' fee award/judgment); and (iv) Service Awards) into the Common Damages Fund within 30 days of the Effective Date, and make annual contributions to the Common Damages Fund during the Damages Claim Period to maintain 20% of the Common Damages Fund balance after payment of items (i)-(iv) described in this paragraph. This structure allows for a substantial amount of the Common Damages Fund to be available at the outset of

² Excluded from the Settlement Class are: (1) those Settlement Class Members who properly exclude themselves from the settlement as approved by the Court; (2) those Property Damage claims of Settlement Class Members previously resolved through settlement or final judgment against Interline or other Released Parties; (3) Interline and its parent, subsidiaries and affiliates; (4) all those Persons that sold or distributed a Toilet Connector, including customers, retailers, resellers, wholesalers, manufacturers, suppliers and distributors of Interline, except to the extent such a Person is pursuing either (i) a Replacement Claim for a Toilet Connector that is or was installed in a residence or other structure located in the United States that the Person owns or owned; or (ii) a Damage Claim arising out of or resulting from the failure of a Toilet Connector; and (5) the presiding District Judge and Magistrate Judge in the Class Action and their immediate families.

the Replacement and Damages Claims Periods, particularly to account for the possibility that a significant number of claims may be submitted upon announcement of the settlement.

The Replacement Remedy allows Settlement Class Members, who have in their possession, or who have replaced without compensation or reimbursement from Interline or other third party, an installed Toilet Connectors in a residence or other structure owned or leased by the Settlement Class Member, to replace the Toilet Connectors and receive a cash reimbursement of \$4 per Toilet Connector (not to exceed five (5) replacement toilet connectors per residence or other structure for a maximum total of \$20 per household). The Settlement Class Member must only demonstrate that he or she owns or possesses a Toilet Connector or replaced the Toilet Connector without compensation from Interline or other third party. There is no restriction on the brand of connector used to replace an eligible Toilet Connector. The "Replacement Claims Period" will be two (2) years from the entry of the Final Approval Order and Judgment.

The Property Damage Remedy provides that those Settlement Class Members who suffered Property Damage due to the failure of a Coupling Nut on a Toilet Connector may be entitled to a cash reimbursement as described in the Settlement Agreement. To be eligible to receive a Property Damage Remedy, a Settlement Class Member (including those who paid to repair property damage on another's behalf, such as subrogated insurers) must establish that the Settlement Class Member has experienced a failure of a Coupling Nut on a Toilet Connector, or otherwise suffered Property Damage from the failure of a Coupling Nut on a Toilet Connector, and make a claim based on such failure within the Damage Claims Period of four (4) years from the date of entry of the Final Approval Order and Judgment. These claims will be evaluated solely by the Claims Administrator, without the involvement of either Class Counsel or Interline, unless the Claims Administrator has a question about product identification (*i.e.*, whether the connector is, in fact, a DuraPro™ Toilet Connector distributed by Interline). Claimants must submit evidence that the Toilet Connector failed, including the Toilet Connector that allegedly failed or photographs of the Toilet Connector. Claimants shall also submit documents substantiating the Property Damage that they claim to have suffered as a result of the failure of a Coupling Nut on a Toilet Connector. Each eligible Claimant seeking relief under the Property Damage Remedy shall be allowed to recover not less than \$4, but not more than 30%, of their reasonably proven Property Damage caused by, and related to, an alleged failure of a Coupling Nut on a Toilet Connector. The 30% cap was negotiated at arm's-length by the Parties to account for Interline's strong defenses of installer errors and misuse, the low failure rate, the lack of a uniform defect, and the likelihood that many of the Toilet Connectors have been in use longer than their expected lifespan. In fact, Interline distributed the products at issue primarily, if not entirely, between 2002 and 2008, which means that these products have been on the market for between 10 and 16 years. Claims will be paid in accordance with the terms as set forth in the Settlement Agreement.

Class Counsel has represented that they intend to file a motion with the Court no less than 30 days before the end of the Objection Period, seeking reimbursement of their litigation costs and up to one-third of the Total Settlement Amount for their attorneys' fees. Class Counsel will also seek Service Awards from the Court in the amount of \$5,000 for each Class Representative.

In accordance with the CAFA notice provisions, 28 U.S.C. § 1715, Interline has enclosed with this letter a CD containing the following documents:

1. The Complaint and First Amended Complaint. *See id.* § 1715(b)(1).
2. Plaintiffs' Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing ("Motion") [ECF No. 242], along with the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; Certification of Settlement Class; and Approval of Form and Content of Proposed Notice that accompanied the Motion [ECF No. 242-1], which were filed on April 24, 2018;
3. Plaintiffs' Memorandum of Law in Support of Their Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing [ECF No. 243], which was also filed on April 24, 2018. The Court has not yet scheduled a hearing for preliminary approval or final approval of the Proposed Settlement. *See id.* § 1715(b)(2).
4. Declaration of Simon Bahne Paris in Support of Plaintiffs' Memorandum of Law in Support of Their Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing (with Exhibits) ("Paris Decl."), which was also filed on April 24, 2018.
5. The proposed form of notices to Class Members about the settlement of the *Ajose* Action and their right to request exclusion from the class are attached as exhibits to the accompanying Settlement Agreement. *See Paris Decl.*, Ex. A. at Exs. A-C. The notices and the notice plan have been submitted to the Court and are subject to Court approval. *See 28 U.S.C. § 1715(b)(3).*
6. A copy of the Settlement Agreement which is subject to Court approval. *See id.* § 1715(b)(4); *see Paris Decl.*, Ex. A.
7. There are no contemporaneous agreements between Class Counsel and Counsel for Interline related to the Toilet Connectors. *See id.* § 1715(b)(5).
8. There is no final judgment or notice of dismissal. *See id.* § 1715(b)(6).
9. There are no written judicial opinions relating to the materials described in subparagraphs (3) through (6) of 28 U.S.C. § 1715. *See id.* § 1715(b)(8).

CAFA also requires that a defendant, "if feasible," must provide "the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement," or, if that is not feasible, to provide a "reasonable estimate of

Interline CAFA Notice
May 4, 2018
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the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.” See 28 U.S.C. § 1715(b)(7)(A)-(B).

Interline cannot feasibly identify the Settlement Class Members who reside in each state, because Interline does not know the identity of the end users of the Toilet Connectors. Interline did not sell the Toilet Connectors directly to consumers or other end users, but rather sold primarily to professional contractors, plumbers and multi-family housing companies. For this reason, it is also extremely difficult to estimate the total number of potential Settlement Class Members in each state. There are other variables that are not known to the parties, such as how many of the Toilet Connectors have already been taken out of service. However, since the Toilet Connectors were distributed and sold nationwide, it can be assumed that the number of Settlement Class Members in each state may be proportionate to the population of each state, relative to the total population of the United States. Based on this assumption, Interline has calculated the potential number of Toilet Connectors and Settlement Class Members in each state (including the District of Columbia) and a projection of the number of property damage claims in each state during the Damage Claims Period. A report setting forth this information is provided on the enclosed CD.

The foregoing information is provided based on the status of the proceedings at the time of the submission of this notification and on the data currently available to Interline. Interline reserves its right to provide updated information concerning the Proposed Settlement or upon request.

Please feel free to contact me, should you have any questions about the Proposed Settlement.

Respectfully,

s/Mark A. Salky

Mark A. Salky

Enclosure

Attachment 1

**CAFA Notice Service List
USPS Certified Mail**

Company	FullName	Address1	Address2	City	State	Zip
Office of the Attorney General	Jahna Lindemuth	PO Box 110300		Juneau	AK	99811
Office of the Attorney General	Steve Marshall	501 Washington Ave		Montgomery	AL	36104
Office of the Attorney General	Leslie Carol Rutledge	323 Center St Ste 200		Little Rock	AR	72201
Office of the Attorney General	Mark Brnovich	2005 N Central Ave		Phoenix	AZ	85004
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Office of the Attorney General	Tim Fox	Department of Justice	PO Box 201401	Helena	MT	59620
Attorney General's Office	Josh Stein	9001 Mail Service Ctr		Raleigh	NC	27699
Office of the Attorney General	Wayne Stenehjem	State Capitol	600 E Boulevard Ave Dept 125	Bismarck	ND	58505
Office of the Attorney General	Doug Peterson	2115 State Capitol		Lincoln	NE	68509
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Office of the Attorney General	Hector Balderas	408 Galisteo St	Villagra Bldg	Santa Fe	NM	87501
Office of the Attorney General	Adam Paul Laxalt	100 N Carson St		Carson City	NV	89701
Office of the Attorney General	Eric T Schneiderman	The Capitol		Albany	NY	12224
Office of the Attorney General	Mike DeWine	30 E Broad St 14th Fl		Columbus	OH	43215
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Office of the Attorney General	Ellen F Rosenblum	Oregon Department of Justice	1162 Court St NE	Salem	OR	97301
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Office of the Attorney General	Marty J Jackley	1302 E Hwy 14 Ste 1		Pierre	SD	57501
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Office of the Attorney General	Ken Paxton	300 W 15th St		Austin	TX	78701
Office of the Attorney General	Sean D. Reyes	Utah State Capitol Complex	350 North State St Ste 230	Salt Lake City	UT	84114
Office of the Attorney General	Mark R. Herring	202 North Ninth Street		Richmond	VA	23219
Office of the Attorney General	TJ Donovan	109 State St		Montpelier	VT	05609
Office of the Attorney General	Bob Ferguson	800 Fifth Avenue	Suite 2000	Seattle	WA	98104
Office of the Attorney General	Brad D. Schimel	PO Box 7857		Madison	WI	53707
Office of the Attorney General	Patrick Morrissey	State Capitol Complex	Bldg 1 Room E 26	Charleston	WV	25305
Office of the Attorney General	Peter K Michael	2320 Capitol Avenue		Cheyenne	WY	82002
Department of Legal Affairs	Talauega Eleasalo V. Ale	Executive Office Building	3rd Floor	Pago Pago	AS	96799
Attorney General Office of Guam	Elizabeth Barrett-Anderson	ITC Building	590 S Marine Corps Dr Ste 901	Tamuning	GU	96913
Office of the Attorney General	Edward Manibusan	Administration Bldg	PO Box 10007	Saipan	MP	96950
PR Department of Justice	Wanda Vazquez Garced	Apartado 9020192		San Juan	PR	00902
Department of Justice	Claude Walker	34-38 Kronprindsens Gade	GERS Bldg 2nd Fl	St Thomas	VI	00802

CAFA Notice Service List

UPS

Company	FullName	Address1	Address2	City	State	Zip
US Department of Justice	Jeff Sessions	950 Pennsylvania Ave NW		Washington	DC	20530

Attachment 2

Mark A. Salky
Tel: (305) 579-0816
Email: salkym@gtlaw.com

May 4, 2018

VIA CERTIFIED MAIL OR UPS

Re: Notice of Proposed Class Action Settlement Pursuant to the Class Action Fairness Act (28 U.S.C. § 1715)

Dear Sir or Madam:

We write on behalf of Interline Brands, Inc. (“Interline”) pursuant to 28 U.S.C. § 1715 (the Class Action Fairness Act or “CAFA”) to notify you of a proposed class action settlement (the “Proposed Settlement”) between Interline and a putative nationwide class of consumers arising from the case captioned as *Jacquelyn Ajose, et al. v. Interline Brands, Inc.*, U.S. District Court for the Middle District of Tennessee, Case No. 14-cv-01707 (the “Ajose Action”).¹

The Ajose Action was filed on August 20, 2014, by putative class representative Jacquelyn Ajose. Plaintiff Ajose, a resident of the State of Pennsylvania, experienced property damage in her home allegedly due to flooding caused by the failure of a plastic Coupling Nut on a DuraPro™ Toilet Connector (“Toilet Connector”) that Interline distributed. These Toilet Connectors are used to connect a toilet fill valve to a water supply source. The Complaint alleges that the Coupling Nuts on these Toilet Connectors are defective because they fracture and fail at the base of the Coupling Nut, resulting in damages sustained by Plaintiff Ajose and similarly-situated members of the putative Class. Plaintiff Ajose also alleged that Interline failed to adequately warn customers of the risk of overtightening and/or using a tool to tighten the Coupling Nut to the base of the toilet. Plaintiff Ajose asserted these claims on behalf of herself and a putative nationwide class of consumers, seeking relief including but not limited to damages, injunctive relief, attorneys’ fees, and costs. Plaintiff Ajose amended her complaint on August 15, 2015, which, among other things, added four new proposed class representatives residing in Colorado (Kathy Smith), Texas (Sharon Kurtz), Arizona (Patricia Evett), and Florida (James L. Boyland) (together with Plaintiff Ajose, “Plaintiffs”).

Interline has denied Plaintiffs’ claims in every material respect and maintained that failures of the Coupling Nuts on these Toilet Connectors were not caused by alleged defects, but rather by improper installation and misuse. Interline has also asserted that many of the failed Toilet Connectors are in use longer than their expected lifespan (approximately 7 to 10 years), that the known failure rate of the Toilet Connectors—regardless of age—has nonetheless been very low (about 0.0219 percent of the roughly 2.925 million sold), and that there is no common defect resulting in the failure of the Coupling Nut on the Toilet Connectors.

¹ All capitalized terms used herein shall have the same definition as those in the Settlement Agreement which accompanies this letter.

In September 2016, Plaintiffs and Interline participated in a formal mediation session with retired federal Magistrate Judge Diane M. Welsh, an experienced and respected mediator. That mediation proved unsuccessful. After significant fact and expert discovery had been completed, Plaintiffs and Interline reconvened for a second formal mediation session in October 2017, with a private mediator, Robert Kaplan, Esq. The parties reached a settlement in principle at this second mediation, subject to, among other things, Interline's ability to reach an agreement with its insurance carriers on an agreement to fund the settlement and an agreement with certain subrogating insurance companies to resolve similar existing claims in four "bundled" cases pending in state court in New Jersey. After months of additional arm's length negotiations, the parties subsequently reached agreement on the terms of the Settlement Agreement, enclosed with this letter, setting forth the Proposed Settlement (for the Total Settlement Amount of \$16.5 million), which the parties expect to be fully executed in the coming days—once the agreements between Interline and its insurance carriers, and between Interline and the subrogating insurance companies, are finalized. Plaintiffs filed their motion for preliminary approval of the Proposed Settlement on April 24, 2018.

As detailed in the Proposed Settlement, the following individuals are included in the Settlement Class:

All Persons who own or owned, or lease or leased, a residence or other structure located in the United States containing a Toilet Connector, or who otherwise suffer or have suffered Property Damage from the failure of a Coupling Nut on a Toilet Connector.²

Interline has agreed to establish a Common Damages Fund against which Settlement Class Members can make claims for a Replacement Remedy and a Property Damage Remedy, as described in detail below. Interline will pay or cause to be paid 40% of the Total Settlement Amount balance (after payment of (i) the cost of the Notice Plan; (ii) the estimated cost/expense of Claim Administration; (iii) the legal costs/expense of Class Counsel (including without limitation any attorneys' fee award/judgment); and (iv) Service Awards) into the Common Damages Fund within 30 days of the Effective Date, and make annual contributions to the Common Damages Fund during the Damages Claim Period to maintain 20% of the Common Damages Fund balance after payment of items (i)-(iv) described in this paragraph. This structure allows for a substantial amount of the Common Damages Fund to be available at the outset of

² Excluded from the Settlement Class are: (1) those Settlement Class Members who properly exclude themselves from the settlement as approved by the Court; (2) those Property Damage claims of Settlement Class Members previously resolved through settlement or final judgment against Interline or other Released Parties; (3) Interline and its parent, subsidiaries and affiliates; (4) all those Persons that sold or distributed a Toilet Connector, including customers, retailers, resellers, wholesalers, manufacturers, suppliers and distributors of Interline, except to the extent such a Person is pursuing either (i) a Replacement Claim for a Toilet Connector that is or was installed in a residence or other structure located in the United States that the Person owns or owned; or (ii) a Damage Claim arising out of or resulting from the failure of a Toilet Connector; and (5) the presiding District Judge and Magistrate Judge in the Class Action and their immediate families.

the Replacement and Damages Claims Periods, particularly to account for the possibility that a significant number of claims may be submitted upon announcement of the settlement.

The Replacement Remedy allows Settlement Class Members, who have in their possession, or who have replaced without compensation or reimbursement from Interline or other third party, an installed Toilet Connectors in a residence or other structure owned or leased by the Settlement Class Member, to replace the Toilet Connectors and receive a cash reimbursement of \$4 per Toilet Connector (not to exceed five (5) replacement toilet connectors per residence or other structure for a maximum total of \$20 per household). The Settlement Class Member must only demonstrate that he or she owns or possesses a Toilet Connector or replaced the Toilet Connector without compensation from Interline or other third party. There is no restriction on the brand of connector used to replace an eligible Toilet Connector. The "Replacement Claims Period" will be two (2) years from the entry of the Final Approval Order and Judgment.

The Property Damage Remedy provides that those Settlement Class Members who suffered Property Damage due to the failure of a Coupling Nut on a Toilet Connector may be entitled to a cash reimbursement as described in the Settlement Agreement. To be eligible to receive a Property Damage Remedy, a Settlement Class Member (including those who paid to repair property damage on another's behalf, such as subrogated insurers) must establish that the Settlement Class Member has experienced a failure of a Coupling Nut on a Toilet Connector, or otherwise suffered Property Damage from the failure of a Coupling Nut on a Toilet Connector, and make a claim based on such failure within the Damage Claims Period of four (4) years from the date of entry of the Final Approval Order and Judgment. These claims will be evaluated solely by the Claims Administrator, without the involvement of either Class Counsel or Interline, unless the Claims Administrator has a question about product identification (*i.e.*, whether the connector is, in fact, a DuraPro™ Toilet Connector distributed by Interline). Claimants must submit evidence that the Toilet Connector failed, including the Toilet Connector that allegedly failed or photographs of the Toilet Connector. Claimants shall also submit documents substantiating the Property Damage that they claim to have suffered as a result of the failure of a Coupling Nut on a Toilet Connector. Each eligible Claimant seeking relief under the Property Damage Remedy shall be allowed to recover not less than \$4, but not more than 30%, of their reasonably proven Property Damage caused by, and related to, an alleged failure of a Coupling Nut on a Toilet Connector. The 30% cap was negotiated at arm's-length by the Parties to account for Interline's strong defenses of installer errors and misuse, the low failure rate, the lack of a uniform defect, and the likelihood that many of the Toilet Connectors have been in use longer than their expected lifespan. In fact, Interline distributed the products at issue primarily, if not entirely, between 2002 and 2008, which means that these products have been on the market for between 10 and 16 years. Claims will be paid in accordance with the terms as set forth in the Settlement Agreement.

Class Counsel has represented that they intend to file a motion with the Court no less than 30 days before the end of the Objection Period, seeking reimbursement of their litigation costs and up to one-third of the Total Settlement Amount for their attorneys' fees. Class Counsel will also seek Service Awards from the Court in the amount of \$5,000 for each Class Representative.

In accordance with the CAFA notice provisions, 28 U.S.C. § 1715, Interline has enclosed with this letter a CD containing the following documents:

1. The Complaint and First Amended Complaint. *See id.* § 1715(b)(1).
2. Plaintiffs' Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing ("Motion") [ECF No. 242], along with the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; Certification of Settlement Class; and Approval of Form and Content of Proposed Notice that accompanied the Motion [ECF No. 242-1], which were filed on April 24, 2018;
3. Plaintiffs' Memorandum of Law in Support of Their Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing [ECF No. 243], which was also filed on April 24, 2018. The Court has not yet scheduled a hearing for preliminary approval or final approval of the Proposed Settlement. *See id.* § 1715(b)(2).
4. Declaration of Simon Bahne Paris in Support of Plaintiffs' Memorandum of Law in Support of Their Motion for an Order Preliminarily Approving Settlement, Certifying Settlement Class, Approving Settlement Notice, and Scheduling Final Fairness Hearing (with Exhibits) ("Paris Decl."), which was also filed on April 24, 2018.
5. The proposed form of notices to Class Members about the settlement of the *Ajose* Action and their right to request exclusion from the class are attached as exhibits to the accompanying Settlement Agreement. *See Paris Decl.*, Ex. A. at Exs. A-C. The notices and the notice plan have been submitted to the Court and are subject to Court approval. *See 28 U.S.C. § 1715(b)(3).*
6. A copy of the Settlement Agreement which is subject to Court approval. *See id.* § 1715(b)(4); *see Paris Decl.*, Ex. A.
7. There are no contemporaneous agreements between Class Counsel and Counsel for Interline related to the Toilet Connectors. *See id.* § 1715(b)(5).
8. There is no final judgment or notice of dismissal. *See id.* § 1715(b)(6).
9. There are no written judicial opinions relating to the materials described in subparagraphs (3) through (6) of 28 U.S.C. § 1715. *See id.* § 1715(b)(8).

CAFA also requires that a defendant, "if feasible," must provide "the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement," or, if that is not feasible, to provide a "reasonable estimate of

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the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.” See 28 U.S.C. § 1715(b)(7)(A)-(B).

Interline cannot feasibly identify the Settlement Class Members who reside in each state, because Interline does not know the identity of the end users of the Toilet Connectors. Interline did not sell the Toilet Connectors directly to consumers or other end users, but rather sold primarily to professional contractors, plumbers and multi-family housing companies. For this reason, it is also extremely difficult to estimate the total number of potential Settlement Class Members in each state. There are other variables that are not known to the parties, such as how many of the Toilet Connectors have already been taken out of service. However, since the Toilet Connectors were distributed and sold nationwide, it can be assumed that the number of Settlement Class Members in each state may be proportionate to the population of each state, relative to the total population of the United States. Based on this assumption, Interline has calculated the potential number of Toilet Connectors and Settlement Class Members in each state (including the District of Columbia) and a projection of the number of property damage claims in each state during the Damage Claims Period. A report setting forth this information is provided on the enclosed CD.

The foregoing information is provided based on the status of the proceedings at the time of the submission of this notification and on the data currently available to Interline. Interline reserves its right to provide updated information concerning the Proposed Settlement or upon request.

Please feel free to contact me, should you have any questions about the Proposed Settlement.

Respectfully,

s/Mark A. Salky

Mark A. Salky

Enclosure