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22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

23 **COUNTY OF LOS ANGELES – CENTRAL CIVIL WEST**

24 MILES HOUZE, individually and on behalf)
25 of all others similarly situated,)
26 SUSAN HOUZE, individually and on behalf)
27 of all others similarly situated,)
28 KEVIN NGAI, individually and on behalf of)
all others similarly situated,)
MARCIA PRICE, individually and on behalf)
of all others similarly situated,)
HENRY OKONKWO, individually and on)
behalf of all others similarly situated,)

Plaintiff,

vs.

BRASSCRAFT MANUFACTURING)
COMPANY, a Michigan corporation, EZ-FLO)
INTERNATIONAL, INC., a California)
corporation, and DOES 1 through 1,000,)
inclusive,)

Defendants.

Case No.: BC493276

Assigned for all Purposes to:
Judge: Hon. Jane Johnson
Dept.: 308

CLASS ACTION

FOURTH AMENDED COMPLAINT

1. **VIOLATION OF CIVIL CODE §§ 896(a)(14) & (15)**
2. **BREACH OF IMPLIED WARRANTY**
3. **STRICT LIABILITY: DESIGN DEFECT**

Action Filed: October 4, 2012
Trial Date: None Set

1 **FOURTH AMENDED COMPLAINT**

2 Plaintiffs Miles Houze, Susan Houze, Kevin Ngai, Marcia Price, and Henry
3 Okonkwo, individually and on behalf of all others similarly situated (hereinafter
4 “Plaintiffs”) bring this action and allege as follows:

5
6 **GENERAL ALLEGATIONS**

7 1. Plaintiffs are the owners of single-family homes or individual unit
8 owners of attached dwellings located in the State of California (“Homes”) the
9 original purchase agreements for which were signed by the original builder on or
10 after January 1, 2003. Plaintiffs Miles Houze’s, Susan Houze’s, Kevin Ngai’s,
11 Marcia Price’s and Henry Okonkwo’s Homes are located in the City of Carson in
12 Los Angeles County, wherein the court in which this action has been filed is
13 located.

14 2. Defendant BrassCraft Manufacturing Company (hereinafter
15 “BrassCraft”) is a Michigan corporation that manufactured and sold and distributed
16 in California for homes sold after January 1, 2003 through the present, various
17 yellow brass components as set forth in paragraph 3, including water stops and
18 water connector line fittings, which were incorporated into the plumbing lines in
19 the Plaintiffs’ Homes as part of their original construction.

20 3. Defendant BrassCraft sold and distributed various plumbing lines,
21 fittings and devices constructed of yellow brass in the State of California, as well
22 as throughout the United States that were installed as a component of the plumbing
23 lines in Plaintiffs’ Homes. The BrassCraft yellow brass products at issue in this
24 case are any and all potable water plumbing system components and sub-
25 components made of yellow brass (copper alloys with a zinc content of 15% or
26 greater by weight) and designed to be regularly in contact with water including, but
27 not limited to, those product categories specifically identified in Exhibit 1, attached
28 hereto, which were manufactured, distributed, and/or sold by BrassCraft

1 (“BrassCraft Yellow Brass Products”). BrassCraft Yellow Brass Products are
2 leaking and corroding through the corrosion process of dezincification, and such
3 dezincification has served to impede the useful life of the plumbing systems. Such
4 dezincification in BrassCraft Yellow Brass Products constitutes actionable
5 violations of the standards, for residential construction set forth in California Civil
6 Code sections 896(a)(14) and 896(a)(15), as well as actionable breaches of implied
7 warranties.

8 4. Plaintiffs are excused from procedures contained within Title 7,
9 Chapter 4 of the California Civil Code pre-litigation process, pursuant to California
10 Civil Code section 931, which states “[a]s to any class action claims that address
11 solely the incorporation of a defective component into a residence, the named and
12 unnamed class members need not comply with ...” Title 7, Chapter 4.

13 5. BrassCraft Yellow Brass Products are defective in that they corrode
14 due to a process known as dezincification and leak. Consequently, the plumbing
15 lines into which said components have been incorporated do not meet, and violate,
16 the standards set forth in California Civil Code section 896(a)(14) and 896(a)(15),
17 which require that “[t]he lines and components of the plumbing system . . . shall
18 not leak” and that “[p]lumbing lines . . . shall not corrode so as to impede the
19 useful life of the systems.”

20 6. Defendant DOES 1 through 124 inclusive also participated in or
21 controlled the design, sale, manufacture and distribution of said BrassCraft Yellow
22 Brass Products and/or are the alter egos of BrassCraft and are consequently liable
23 to Plaintiffs as manufacturers of the components. Plaintiffs are ignorant of the true
24 names or capacities of DOES 1 through 124, which are fictitious, and will seek
25 leave to file a further amended complaint if and when their true names and
26 capacities are ascertained.

27 7. Defendant EZ-Flo International, Inc. (“EZ-Flo”) is a California
28 corporation that manufactured and sold and distributed in California for homes

1 sold as of January 1, 2003 through the present various water connector lines, stop
2 valves and valves used in domestic water systems in class member homes
3 containing integral yellow brass components, including the connectors and integral
4 fittings, which were incorporated into the plumbing lines in the Plaintiffs' Homes
5 as part of their original construction ("EZ-Flo Yellow Brass Products"). On
6 information and belief, the current part numbers, UPC's, and descriptions of the
7 EZ-Flo Yellow Brass Products contained in the current and publicly available
8 catalogue of EZ-Flo on the EZ-Flo website, <https://www.ez-flo.net/>, as set forth in
9 Exhibit 2 as to the section identified as the water connect stop valves and values, a
10 printout of which is attached as Exhibit 2, and are the same part numbers, UPC's,
11 and descriptions as the EZ-Flo Yellow Brass Products manufactured and supplied
12 by EZ-Flo at issue in this litigation. Further information regarding the part
13 numbers, UPC's, and descriptions of those EZ-Flo Yellow Brass Products at issue
14 in this litigation are solely within the possession, custody, and control of EZ-Flo
15 and for which Plaintiffs will seek discovery, when permitted, and will amend this
16 pleading, if required. Items referred to herein as EZ-Flo Yellow Brass Products
17 are those with a zinc content in excess of 15 percent by weight and include
18 products manufactured and sold by EZ-Flo.

19 8. EZ-Flo Yellow Brass Products are defective in that they corrode due
20 to a process known as dezincification, and leak, and since have an impeded useful
21 life. Consequently, the plumbing lines into which said components have been
22 incorporated do not meet, and violate, the standards set forth in California Civil
23 Code section 896(a)(14)&(15), which require that "[t]he lines and components of
24 the plumbing system . . . shall not leak" and that "[p]lumbing lines . . . shall not
25 corrode so as to impede the useful life of the systems."

26 9. Defendants DOES 125-250 inclusive also participated in or controlled
27 the design, sale, manufacture and distribution of said EZ-Flo Yellow Brass
28 Products and/or are the alter egos of EZ-Flo and are consequently liable to

1 Plaintiffs as manufacturers of the components. Plaintiffs are ignorant of the true
2 names or capacities of DOES 125 through 250, which are fictitious, and will seek
3 leave to file a further amended complaint if and when their true names and
4 capacities are ascertained.

5 10. Defendants DOES 251 through 500 inclusive are manufacturers and
6 distributors of yellow brass plumbing lines and fittings sold and distributed in
7 California which are comprised of yellow brass and which are corroding and de-
8 zincifying, causing plumbing lines to leak and causing the plumbing lines to have
9 an impaired useful life. Plaintiffs are ignorant of the true names or capacities of
10 DOES 251 through 500, which are fictitious, and will seek leave to file a further
11 amended complaint if and when their true names and capacities are ascertained.

12 13 **JURISDICTION AND VENUE**

14 11. This Court has jurisdiction over this action pursuant to California
15 Code of Civil Procedure section 410.10. Plaintiffs seek damages on behalf of
16 themselves and all others similarly situated under the laws of the State of
17 California.

18 12. Venue is proper in this Court pursuant to California Code of Civil
19 Procedure section 392 because the damages that Plaintiffs seek are for injuries to
20 Plaintiffs' Homes which are real property that are located in all of the counties of
21 California, including Los Angeles County.

22 23 **CLASS ACTION ALLEGATIONS**

24 13. This suit is brought as a class action pursuant to California Code of
25 Civil Procedure section 382 against Defendant BrassCraft on behalf of a class
26 called the "BrassCraft Class" and defined as follows:

27 All persons that own or have owned a residential and/or
28 commercial property unit located in the United States that

1 contain or have ever contained BrassCraft Yellow Brass
2 Products, including but not limited to those identified in Exhibit
3 1 which were manufactured, distributed, and/or sold by
4 Defendant BrassCraft.

5 14. This suit is also brought as a class action pursuant to California Code
6 of Civil Procedure section 382 against Defendant EZ-Flo International, Inc. on
7 behalf of a separate class called the “EZ-Flo Class” and defined as follows:

8 All owners of originally constructed individual dwelling units,
9 other than condominium conversions, in the State of California
10 where the original purchase agreements for the individual
11 dwelling units were signed by the original seller, on or after
12 January 1, 2003 where the residential units had installed, as part
13 of the original construction, EZ-Flo Yellow Brass Products in
14 the plumbing lines.

15 15. **Exclusions from the Class.** Plaintiffs specifically exclude
16 Defendants from the proposed plaintiff class, all subsidiaries or affiliates of
17 Defendants, any entity in which any Defendant has a controlling interest, and any
18 and all of Defendants’ employees, affiliates, legal representatives, successors or
19 assignees, as well as any person or entity that has previously commenced and
20 concluded a lawsuit against BrassCraft or EZ-Flo arising out of the subject matter
21 of this lawsuit, in addition to the judicial officers assigned to this case and any
22 member of the judicial officers’ immediate families.

23 16. **Ascertainability.** Plaintiffs bring this action on their own behalves
24 and on behalf of all persons similarly situated. Plaintiffs represent the class of
25 individuals clearly identified through the class definitions above.

26 17. **Numerosity.** The members of the class are so numerous, estimated
27 to consist of more than 70,000 persons that the joinder of all such persons would
28 be impracticable, and the disposition of their claims in a class action rather than in

1 individual actions would benefit the parties and the courts. The basis for this
2 estimate of class size is that from 2003 to the date of the filing of this action more
3 than 700,000 new residential units were constructed in the State of California
4 alone and it is estimated that not less than ten percent of these included yellow
5 brass components manufactured by BrassCraft or EZ-Flo and incorporated into
6 the units' original plumbing lines. Additionally, BrassCraft has sold millions of
7 BrassCraft Yellow Brass Products in California and throughout the rest of the
8 United States.

9 **18. Means for Identification.** Plaintiffs are informed and believe, and on
10 that basis allege, that there exists reasonably available means of identifying class
11 members (at the appropriate time following class certification) through documents
12 and materials to be subpoenaed and requested from residential developers,
13 plumbers, warehouses, and Defendants.

14 **19. Community of Interest -- Commonality.** There is a well-defined
15 community of interest amongst the members of the Plaintiff class in the questions
16 of law and fact which will predominate in this action, including, but not limited to:

17 (a) Whether the various yellow brass components manufactured by
18 BrassCraft and EZ-Flo and incorporated into the plumbing lines in the
19 Homes as part of their original construction corrode.

20 (b) Whether said components do not meet, and violate, the standard set
21 forth in California Civil Code section 896(a)(14), which requires that the
22 "lines and components of the plumbing system . . . shall not leak."

23 (c) Whether said components do not meet, and violate, the standard set
24 forth in California Civil Code section 896(a)(15), which requires that
25 "[p]lumbing lines . . . shall not corrode so as to impede the useful life of
26 the systems."

27 (d) The measure of plaintiffs' damages for the reasonable value of
28 repairing the aforesaid violation, the reasonable cost of repairing and

1 rectifying any damages resulting from the failure of the Homes to meet
2 the statutory standard, reasonable relocation and storage expenses,
3 reasonable investigative costs, and other expenses.

4 (e) Whether BrassCraft Yellow Brass Products breach any implied
5 warranties to consumers.

6 (f) Whether BrassCraft Yellow Brass Products are defective;

7 20. **Community of Interest – Typicality.** The named plaintiffs are
8 typical of the class to be represented in that they are with respect to the defining
9 characteristics of the class virtually identical to the other class members and the
10 named Plaintiffs’ Homes have yellow brass products manufactured by BrassCraft
11 and EZ-Flo in the plumbing lines.

12 21. **Community of Interest – Adequacy of Class Representatives.**
13 The named Plaintiffs can fairly and adequately represent the class because they
14 qualify as class members, are typical of the class to be represented, and there is no
15 reason why they cannot adequately represent the class.

16 22. **Community of Interest – Adequacy of Counsel.** Counsel for
17 Plaintiffs are competent and experienced in multiparty complex construction
18 defect class actions and are qualified to conduct the proposed litigation

19 23. **Impracticability of Joinder.** Joinder of the unnamed class members
20 on an individual basis would be impracticable in light of their number and their
21 being located throughout the State of California.

22 24. **No Better Remedy.** There is no plain, speedy, or adequate remedy
23 other than by maintenance of this class action since the damage to each plaintiff is
24 relatively small, making it economically unfeasible to pursue lawful remedies
25 other than by a class action. A class action would be superior to individualized
26 actions for the fair and efficient adjudication of this controversy. Consequently,
27 there would be a failure of justice but for the maintenance of the present class
28 action.

1 Yellow Brass Products and EZ-Flo Yellow Brass Products in the plumbing lines
2 of Plaintiffs' Homes.

3 32. Defendants were negligent in the design and manufacture of the
4 BrassCraft Yellow Brass Products and EZ-Flo Yellow Brass Products for a
5 number of reasons, including Defendants' choice of a high zinc content brass
6 alloy as the material used for their respective yellow brass products.

7 33. The BrassCraft Yellow Brass Products and EZ-Flo Yellow Brass
8 Products fail their intended purpose because of the defective design and
9 manufacture.

10 34. Plaintiffs have incurred and, during the pendency of this action, will
11 incur expenses for attorney's fees and costs herein. Such attorney's fees and
12 costs are necessary for the prosecution of this action and will result in a benefit
13 to each of the members of the class. This action will result in the enforcement of
14 important rights supported by strong public policy affecting the public interest
15 which will confer a significant benefit on the general public and a large class of
16 persons, where the necessity and financial burden of private enforcement are
17 such as to make the award appropriate, and where such fees should not in the
18 interest of justice be paid out of the recovery, pursuant to California Code of
19 Civil Procedure section 1021.5.

20 35. Plaintiffs have also been required to retain the services of experts and
21 consultants to investigate the violations of the building standard contained at
22 California Civil Code section 896(a)(14) and 896(a)(15) and seek damages for
23 investigative costs pursuant to California Civil Code section 944.

24
25 **FIRST CAUSE OF ACTION INDIVIDUALLY**
26 **AND ON BEHALF OF CLASS**
27

1 **(Violation of Standards for Residential Construction**
2 **by All Plaintiffs Against BrassCraft, EZ-Flo Entities**
3 **and Does 1-1,000, Inclusive)**

4 36. Plaintiffs hereby reallege and incorporate by this reference the
5 foregoing paragraphs of this complaint as if fully set forth herein.

6 37. BrassCraft, EZ-Flo, and DOES 1 to 1,000 caused, in whole or in part,
7 the aforesaid violations as the result of one or more negligent acts or omissions or
8 breaches of contract.

9 38. Plaintiffs have incurred reasonable investigative costs in connection
10 with the violation of the standard as alleged.

11 39. Defendants are jointly and severally liable to plaintiffs for damages
12 for the reasonable value of repairing the aforesaid violation, the reasonable cost of
13 repairing and rectifying any damages resulting from the failure of the Homes to
14 meet the standard, reasonable relocation and storage expenses, reasonable
15 investigative costs for reach established violation, and all other costs or fees
16 recoverable by contract or statute.

17
18 **SECOND CAUSE OF ACTION INDIVIDUALLY**
19 **AND ON BEHALF OF CLASS**
20 **(Breach of Implied Warranty**

21 **by All Plaintiffs Against BrassCraft and DOES 1-124, Inclusive)**

22 40. Plaintiffs hereby reallege and incorporate by reference all previous
23 paragraphs of the complaint as though fully set forth herein.

24 41. At all times relevant to this action, BrassCraft designed, researched,
25 developed, manufactured, tested, labeled, inspected, advertised, promoted,
26 marketed, sold, and distributed into the stream of commerce the various
27 plumbing lines, fittings and devices constructed of yellow brass that were
28 installed as a component of the plumbing lines in Plaintiffs' Homes.

1 42. At the time and place of the sale, distribution, and supply of the
2 BrassCraft Yellow Brass Products to Plaintiffs by way of various retailers and/or
3 contractors, BrassCraft impliedly warranted that BrassCraft Yellow Brass
4 Products were of the quality that a buyer would expect and effective for their
5 intended, reasonably foreseeable use and for their particular purpose.

6 43. BrassCraft knew of the intended and reasonably foreseeable use of
7 BrassCraft Yellow Brass Products when they marketed, sold, and distributed the
8 products for use by Plaintiffs and others, and BrassCraft impliedly warranted the
9 products to be of merchantable quality, fit for their intended use and particular
10 purpose.

11 44. BrassCraft impliedly warranted to the retail plumbing community,
12 home construction community, and Plaintiffs that the BrassCraft Yellow Brass
13 Products were of merchantable quality, fit for the ordinary purpose for which the
14 products were intended and marketed to be used.

15 45. These implied warranties made by BrassCraft were breached because
16 BrassCraft Yellow Brass Products were defective and not of merchantable quality
17 when used in their intended and/or reasonably foreseeable manner, and not
18 suitable or fit for their particular purposes.

19 46. Plaintiffs and residential builders and/or contractors reasonably relied
20 on the superior skill and judgment of BrassCraft as the designers, researchers and
21 manufacturers of the BrassCraft Yellow Brass Products as to whether the
22 products were of merchantable quality and fit for their particular purpose.
23 Plaintiff and residential builders and/or contractors also reasonably relied on the
24 implied warranty of merchantability and fitness for the particular use and purpose
25 for which the BrassCraft Yellow Brass Products were manufactured and sold.

26 47. BrassCraft knew, or reasonably should have known that the
27 BrassCraft Yellow Brass Products were defective, were susceptible to
28 dezincification and corrosion, and would cause plumbing system failures,

1 including but not limited to leaks.

2 48. BrassCraft placed the BrassCraft Yellow Brass Products into the
3 stream of commerce in a defective and unreasonable condition, and the products
4 were expected to and did reach Plaintiffs without substantial change in the
5 condition in which the BrassCraft Yellow Brass Products were manufactured and
6 sold.

7 49. BrassCraft breached its implied warranties because the BrassCraft
8 Yellow Brass Products were not fit for their intended use and particular purpose.

9 50. As a proximate result of BrassCraft's conduct, as described herein,
10 Plaintiffs have incurred damages in an amount to be determined at trial.

11
12
13 **THIRD CAUSE OF ACTION INDIVIDUALLY**
14 **AND ON BEHALF OF CLASS**
15 **(Strict Liability: Design Defect**

16 **by All Plaintiffs Against BrassCraft and DOES 1-124, Inclusive)**

17 51. Plaintiffs hereby reallege and incorporate by reference all previous
18 paragraphs of the complaint as though fully set forth herein.

19 52. BrassCraft manufactured, distributed and/or sold the BrassCraft
20 Yellow Brass Products.

21 53. The BrassCraft Yellow Brass Products contained a design defect
22 when they left BrassCraft's possession.

23 54. The BrassCraft Yellow Brass Products had risks that were known or
24 knowable in light of the scientific knowledge that was generally accepted at the
25 time of manufacture, distribution and/or sale.

26 55. The risks in the BrassCraft Yellow Brass Products presented a
27 substantial danger when the BrassCraft Yellow Brass Products were used or
28 misused in an intended or reasonably foreseeable way.

1 56. Ordinary consumers would not have recognized the potential risks.

2 57. BrassCraft knew or should have known that the BrassCraft Yellow
3 Brass Products created significant risks to consumers.

4 58. BrassCraft Yellow Brass Products were purchased for use in
5 Plaintiffs' Homes after BrassCraft manufactured, designed, sold, supplied,
6 marketed or otherwise introduced them into the stream of commerce.

7 59. Plaintiffs suffered harm, damages and economic losses and Plaintiffs
8 will continue to suffer such harm, damages and economic losses in the future,
9 though Plaintiffs do not purport to claim any personal injuries herein as a result of
10 the defect alleged.

11 60. BrassCraft's misconduct was a substantial factor in causing and
12 proximately caused Plaintiffs' harm, damages and economic losses.

13 61. BrassCraft's conduct was gross, reckless and in bad faith or willful
14 disregard of the rights and interest of Plaintiffs and the Class Members.
15 BrassCraft acted intentionally, maliciously and oppressively, with a willful and
16 conscious disregard of the rights of Plaintiff and the Class Members, so as to
17 constitute oppression, fraud or malice under the law.

18

19

PRAYER FOR RELIEF

20 Wherefore, Plaintiffs respectfully request that this Court certify both the
21 BrassCraft Class and the EZ-Flo Class in this action and certify Plaintiffs as the
22 class representatives and designate their counsel as counsel for the classes and
23 pray for judgment as follows:

24 1. For general and special damages according to proof at the time of
25 trial and as provided by law according to proof at time of trial and
26 believed to be in excess of two hundred eighty million dollars
27 (\$280,000,000);

28 2. Costs and expenses of suit incurred herein;


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- 3. Investigative costs pursuant to California Civil Code section 944;
- 4. Attorney's fees, pursuant to California Code of Civil Procedure section 1021.5; and
- 5. Such other and further relief as is proper and just.

Dated: March 16, 2016

KASDAN LIPPSMITH WEBER TURNER LLP

By: _____



KENNETH S. KASDAN
GRAHAM B. LIPPSMITH
MICHAEL D. TURNER
BRYAN M. ZUETEL
JACLYN L. ANDERSON
Attorneys for Plaintiffs

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. I am an employee of or agent for Kasdan LippSmith Weber Turner LLP, whose business address is 500 S. Grand Avenue, Suite 1310, Los Angeles, CA 90071.

On March 16, 2016, I served the foregoing document(s): **FOURTH AMENDED COMPLAINT** to the following parties in this action addressed as follows:

(BY ELECTRONIC FILING & SERVICE CASE ANYWHERE) I caused the above-entitled document(s) to be served through Case Anywhere at www.caseanywhere.com addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the Case Anywhere Filing Receipt Page/Confirmation will be maintained with the original document(s) in this office.

Executed on March 16, 2016 in Los Angeles, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



NIKI SMITH

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