

**MCKEE'S CARPET ZONE V.
SEARS CANADA INC. AND HOME COVERINGS BUYING GROUP INC.
FREQUENTLY ASKED QUESTIONS**

**ACTION COMMENCED BY SEARS FLOOR COVERING CENTRE LICENSEE
ALLEGING UNDISCLOSED REBATES**

1. I HEARD THAT A PROPOSED CLASS ACTION HAS BEEN COMMENCED AGAINST THE DEFENDANTS. WHAT DOES THIS MEAN?

The action was commenced by McKee's Carpet Zone as a Representative Plaintiff on its own behalf and proposing that the action be certified as a class proceeding to include all possible class members as defined in the Statement of Claim. The proposed action does not proceed as a class action until it is certified as a class proceeding by the Court.

2. WHAT HAPPENS NEXT?

The Representative Plaintiff has brought a motion seeking certification of the action as a class proceeding which is scheduled to proceed before Mr. Justice Strathy in the Ontario Superior Court of Justice in Toronto on May 25/26, 2010.

The Representative has served and filed its Certification Motion Record and the defendants have served and filed their Responding Motion Records to the request for certification. Class examinations of witnesses have taken place and the matter is currently on schedule to proceed to hearing on May 25 and 26, 2010.

3. WHAT DO YOU NEED FROM ME NOW?

You do not need to do anything further at this point in time. If you have not already done so, you may provide us with your information including copies of documentation and we will record your information on our database so that you can receive future updates as to the progress of the action. Being included on our database does not obligate you in any way. It does not necessarily mean that you are part of the Class as defined by the Court either.

4. HOW DO I KNOW IF I AM PART OF THE CLASS ACTION?

If you fall within the Class as defined by the Court, it is not necessary for you to do anything in order to be included in the lawsuit. The *Class Proceedings Act* is by default inclusive, rather than exclusive. This means that you will be automatically included in the lawsuit, subject to your right to opt-out and exclude yourself. Your opt-out election which will not occur until some time in the future and you will be informed prior to making your decision.

If you were a Licensee with Sears Canada Inc. and operated a Sears Floor Covering Centre for any of the years 1999 through to and including 2008, you should be included in the proposed class as that is the class definition proposed to the Court. Once again, the determination of whether this action may

proceed as a class proceeding and what the class definition will be is subject to determination of the Court at the certification motion hearing.

5. I NEED ADVICE REGARDING MY SITUATION AND ISSUES WITH SEARS CANADA INC AND HOME COVERINGS BUYING GROUP INC. CAN YOU HELP?

We do not offer legal advice regarding individual situations to class members, except where a specific individual retainer agreement is entered into. Accordingly, do not presume that we are acting on your behalf in respect of any issue unless there is a clear retainer agreement that we are engaged to do so.

6. WHAT IS THE COST TO ME IN PARTICIPATING IN THE CLASS PROCEEDING?

Individual class members are not personally liable to pay counsel for prosecuting the common issues in the class action nor are they liable to pay their own legal fees if the class action is not successful.

Individual Class Members may be responsible for their own legal fees if, after the trial of common issues, they are required to retain their own counsel to deal with individual issues that remain.

Plaintiffs' counsel may seek counsel fees from the value or benefit gained by class members resulting from the class proceeding.

Plaintiffs' counsel must obtain court approval of any counsel fees to be paid by the Representative Plaintiffs and class members.

7. HOW CAN I GET MORE INFORMATION?

Plaintiffs' counsel are maintaining a database of individuals who request to be kept up to date as to recent developments. To be added to this database, or to obtain further information, you can contact plaintiffs' counsel David Thompson or Matthew Moloci of Scarfone Hawkins^{LLP} at 905-523-1333 extension 278 or bscott@shlaw.ca.

You can also check out the following website for the most recent developments:

www.classactionlaw.ca