

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**The BP Solar Panel Class Action Settlement  
Now Includes BP365TS Integrated Roofing Solar  
Panels Manufactured Between 2005-2007**

*A federal judge authorized this notice. This is not a solicitation from a lawyer.*

*Para una notificación en Español, visitar [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com).*

- Please read this notice carefully as it impacts your rights and provides you with information regarding how to file a claim. Your legal rights may be affected whether or not you take action.
- On December 22, 2016, the Court approved a Settlement in a class action lawsuit against BP Solar and Home Depot involving solar panels manufactured between 1999 and 2007 with an S-type junction box. The lawsuit claims these panels are defective and prone to junction box failures, which could cause burn marks at the junction box, shattered glass, and be a potential fire hazard. BP and Home Depot deny these claims. Of the original \$45 million-dollar common fund and \$20 million claim made fund, approximately \$15 million remains for eligible class members to claim benefits for replacement or repair.
- On [DATE], the Court preliminarily approved a modification to the Settlement (“Modified Settlement”) that would include BP365TS integrated roofing solar panels manufactured between 2005-2007 (“BP365TS Panels”).
- This Notice only covers the BP365TS Panels. For a complete list of other solar panels included in the original Settlement, please visit [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com).
- The Plaintiffs’ complaint alleges the BP365TS Panels are prone to junction box failures, which could cause burn marks, shattered glass at the junction box, and a potential fire hazard. The Defendants deny these allegations.
- Generally, the Modified Settlement includes anyone in the United States who purchased BP365TS Panels for initial installation on a property, or who purchased a property on which BP365TS Panels had first been installed, and who currently own some or all of those Panels (*see* Question 6 for any exclusions). This lawsuit and Modified Settlement do **not** cover BP solar panels manufactured after 2007, or panels manufactured from 1999-2007 without an S-type junction box. Those solar panels may look similar but have a different junction box and therefore are not involved in this Modified Settlement.
- The Modified Settlement will provide for removal and disposal of the BP365TS Panels, and replacement with new solar panels, for eligible class members (*see* Question 3 below). If additional costs such as construction permits and/or a new inverter are required by law in order to replace your system (under your local building code), you may be required to pay all or part of those costs (*see* Question 9).

**Your legal rights are affected even if you do nothing.  
Please read this notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THE MODIFIED SETTLEMENT</b>	
<b>SUBMIT A CLAIM</b>	You must submit a claim to get benefits. File your claim soon because claims will be paid until the Settlement Fund is spent.
<b>ASK TO BE EXCLUDED</b>	Get no benefits from the Modified Settlement. This is the only option that allows you to sue the Defendants over the claims resolved by the Modified Settlement. Exclusions must be submitted by <b>(Notice Start Date + 85 days)</b> .
<b>OBJECT</b>	Write to the Court if you do not like the Modified Settlement. Objections must be submitted by <b>(Notice Start Date + 85 days)</b> .
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Modified Settlement. Fairness Hearing is scheduled for <b>(Notice Start Date + 100 days)</b> .
<b>DO NOTHING</b>	Get no payment or replacement. Give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Modified Settlement. Benefits will only be provided if the Court approves the Modified Settlement and after any appeals are resolved. The final approval hearing is scheduled for **(Notice Start Date + 100 days)** (*see* Question 21). Please be patient.

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## BASIC INFORMATION

### 1. Why is there a notice?

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A Court has authorized this notice because you have a right to know about a proposed Modified Settlement of a class action lawsuit involving BP solar panels and your options before the Court decides whether to give final approval to the proposed Modified Settlement. This notice explains the lawsuit, the proposed Modified Settlement, the benefits available, and your legal rights.

The Honorable Susan Illston of the United States District Court for the Northern District of California is overseeing this case. The case is known as *Michael Allagas, et al. v. BP Solar International, Inc., et al.*, Case No. 3:14-cv-00560-SI. The people who sued are called the Plaintiffs, and the companies they sued are called Defendants. The Defendants in this case are: BP Solar International, Inc. and Home Depot U.S.A., Inc.

### 2. What is this about?

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The lawsuit claims that the BP solar panels manufactured with S-type junction boxes are defective and prone to premature failure, do not generate the expected level of power, and create a potential fire hazard. The Defendants deny these claims. The photo below shows what BP365TS Panels look like.



### 3. Which BP model numbers are included in the Modified Settlement?

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The solar panels included in this Modified Settlement are called “BP365TS Panels.” The BP365TS Panels covered in this Notice are BP365TS integrated roofing solar panels manufactured between 2005-2007. For a complete list of all solar panels included in the original Settlement, please visit [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com).

This Modified Settlement does **not** cover BP solar panels without the S-type junction box, which BP stopped using in 2007 at the latest. These solar panels look very similar to the BP365TS Panels included in the original Settlement but are different products.

If you don't know whether your BP product is included in this Modified Settlement, contact the Claims Administrator at 1-844-360-2767 for help.

#### **4. Why is this a class action?**

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In a class action, one or more people called "class representatives" sue on behalf of themselves and other people with similar claims. The class representatives and those with similar claims are referred to as the "settlement class" or "settlement class members." In this Settlement, the Class Representatives are Michael Allagas, Brett Mohrman, Arthur Ray, and Brian Dickson. One court resolves the issues for all members of the Settlement Class, except for those who exclude themselves from the Settlement Class.

#### **5. Why is there a Modified Settlement?**

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The Court has not decided in favor of the Plaintiffs or the Defendants. Instead, both sides have agreed to a Modified Settlement. By agreeing to the Modified Settlement, the Parties avoid the costs and uncertainty of a trial, and the people affected will get a chance to receive replacement or removal of their BP365TS Panels. The Class Representatives and their attorneys think the Modified Settlement is best for all Settlement Class Members. The Modified Settlement does not mean that the Court has determined that Defendants have done anything wrong.

### **WHO IS PART OF THE MODIFIED SETTLEMENT?**

If you received mailed notice of the Modified Settlement, then you may be a member of the Settlement Class. But even if you did not receive a notice by mail, you may be a member of the Settlement Class, as described below.

#### **6. How do I know if I am part of the Modified Settlement?**

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You are included in the Modified Settlement and deemed a Settlement Class Member if you purchased BP365TS Panels for initial installation on a property, or you acquired a property on which BP365TS Panels had first been installed, and, in either case, you currently own some or all of those BP365TS Panels.

"Property" means any structure, including but not limited to homes, townhouses, condominiums, apartments, multi-unit housing structures, hotels, motels, hospitals, schools, churches or other places of worship, commercial structures, government structures, homes within a homeowners association or other similar entities, other types of buildings (e.g., guest houses, garages, workshops, sheds, hangers), or other structures of any kind, whether commercial or residential (including permanent or temporary residential structures), or any improvement to real property.

The Settlement Class does not include the Defendants or any entity in which a Defendant owns a controlling interest and their legal representatives, heirs, and successors. The Settlement Class also does not include the judge or judges to whom this case is assigned and their immediate family members.

## **7. How can I tell if I have BP solar panels?**

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The BP solar panel model number is located on the sticker affixed to the back of the solar panel. This information may also be contained in your purchase agreement or other documentation. Additional information about determining whether your Panels are BP panels can be obtained by contacting:

**BP Solar Panel Settlement**  
**c/o JND Legal Administration**  
**PO Box 6878**  
**Broomfield, CO 80021**

Or call the toll-free number: **1-844-360-2767**.

## **8. What if I am not sure whether I am included in the Modified Settlement?**

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If you are not sure whether you are included in the Modified Settlement, you may call 1-844-360-2767 with questions or visit [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com). You may also write with questions to BP Solar Panel Settlement:

**BP Solar Panel Settlement**  
**c/o JND Legal Administration**  
**PO Box 6878**  
**Broomfield, CO 80021**  
**Website: [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com)**

## **THE MODIFIED SETTLEMENT BENEFITS**

### **9. What does the Modified Settlement provide?**

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A Common Settlement Fund was established to pay for the removal, replacement, and disposal of BP365TS Panels that fall into Category 1, which includes BP365TS Panels manufactured between 2005-2007, (*see* Question 3 above). The Defendants paid \$45.33 million into the Settlement Fund. There is currently approximately \$15.5 million available in the net Settlement Fund for claims.

- The net Settlement Fund will be available to pay to replace the BP365TS Panels or otherwise compensate Settlement Class Members. Labor, materials, and replacement solar panels will be provided and installed by licensed contractors approved by the Claims Administrator.
- If it is determined that additional costs, such as construction permits and/or a new inverter, are required by law to replace your system (under your local building code), you will be required to pay those costs.
- The replacement solar panels will come with an industry standard manufacturer's warranty issued by the manufacturer of the replacement panels.
- The labor work provided will come with an industry standard warranty from the contractor hired to perform the replacement work, including any contractors hired by the Claims Administrator.

- You may opt to use your own replacement contractor (instead of a contractor hired by the Claims Administrator) to replace BP365TS Panels, but all Class Panel removal and disposal will be handled by the Claims Administrator. Once the BP365TS Panels have been removed, you will receive payment up to the rate of \$4.50 per watt removed, minus the removal and disposal costs.

## HOW TO GET BENEFITS

### 10. How do I get benefits?

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All Settlement Class Members will need to submit a Claim Form to receive benefits. If you did not receive a Claim Form in the mail, Claim Forms are available at [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com) or by calling 1-844-360-2767. Please submit your Claim Form as soon as possible; priority in scheduling will be based on the order in which Claim Forms are received. Please read the instructions carefully and fill out the Claim Form and mail it. Please submit the Claim Form to:

**BP Solar Panel Settlement**  
**c/o JND Legal Administration**  
**PO Box 6878**  
**Broomfield, CO 80021**  
**Fax: 1-888-533-1637**  
**Email: [info@BPSolarSettlement.com](mailto:info@BPSolarSettlement.com)**  
**Website: [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com)**

### 11. What is the deadline for submitting claims?

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There is no deadline to submit a claim in this case. Claims will be paid until the Common Fund is spent. Therefore, while there is no firm claims deadline, if you have BP365TS Panels, it is best to submit your claim soon as possible. Claims will be paid until the Common Fund is spent.

For a complete list of other solar panels included in the original Settlement, please visit [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com).

### 12. When will I receive benefits?

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The Modified Settlement program will begin after the Court grants final approval of the Modified Settlement and after any appeals are resolved (see “The Fairness Hearing” below). If there are appeals, resolving them can take time. Please be patient.

### 13. What am I giving up to stay in the Modified Settlement Class?

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Section XII of the Settlement Agreement describes the released claims in more detail, so read it carefully. The Settlement Agreement and Modified Settlement is available online at [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com). If you have any questions you can talk to the law firms listed in Question 19 for free or you can, if you wish, talk to your own lawyer at your own expense if you have questions about what this means.

## EXCLUDING YOURSELF FROM THE MODIFIED SETTLEMENT

If you do not want the benefits from the Modified Settlement, and you want to keep the right to sue the Defendants or anyone else about the issues in this case, then you must take steps to opt out of the Modified Settlement. This is called excluding yourself from, or “opting out” of, the Modified Settlement Class.

### 14. How do I get out of the Modified Settlement?

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To exclude yourself or “opt out” from the Modified Settlement, you must mail a letter or other written document to the Claims Administrator. Your request must include:

- Your full name, current address, telephone number, and the property location where your BP365TS Panels are installed (if different from your current address);
- A statement that you “want to be excluded from the proposed class in *Allagas v. BP Solar International, Inc.* and receive none of the benefits of the Modified Settlement”;
- Your signature; and
- The name and signature of your attorney (if you are represented by one)

In addition, please also provide the following information with your opt out request if known to you:

- The model number(s) and/or serial numbers of your BP365TS Panels;
- Date of purchase or installation of your BP365TS Panels; and
- The number of BP365TS Panels you own.

You must mail your exclusion request, **postmarked no later than (Notice Start Date + 85 days)** to:

**BP Solar Panel Settlement  
c/o JND Legal Administration PO Box 6878  
Broomfield, CO 80021**

### 15. If I do not exclude myself, can I sue the Defendants for the same thing later?

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No. Unless you exclude yourself, you give up the right to sue anyone, including but not limited to Defendants, for the claims that the Modified Settlement resolves. See Question 13 for a description of the claims you are giving up by staying in the Modified Settlement.

### 16. If I exclude myself, can I still get benefits?

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No. You will not get benefits if you exclude yourself from the Modified Settlement.

## OBJECTING TO THE MODIFIED SETTLEMENT

### 17. How do I tell the Court if I do not like the Modified Settlement?

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If you are a Modified Settlement Class Member and do not opt out, you can object to the Modified Settlement if you don't like some part of it. The Court will consider your views. To object, you must submit a letter that includes the following:

- Your full name, current address, telephone number, and the property location where your BP365TS Panels are installed (if different from your current address);
- Statement under penalty of perjury that you are the current owner of the BP365TS Panels;
- The date(s) of purchase and installation of the BP365TS Panels;
- Model numbers and/or serial numbers of your BP365TS Panels;
- The reasons you object to the Modified Settlement, along with any supporting materials;
- Whether you intend to appear at the Fairness Hearing (*see* Question 21);
- Your signature; and
- The name and signature of your attorney (if you are represented by one).

You must mail your objection to the following addresses, **postmarked by (Notice Start Date + 85 days)**:

United States District Court Northern District of California 450 Golden Gate Avenue, Box 36060 San Francisco, CA 94102-3489 Attn: BP Solar Settlement (Judge Illston)	BP Solar Panel Settlement c/o JND Legal Administration PO Box 6878 Broomfield, CO 80021
Birka-White Law Offices Attn: BP Solar Settlement 178 E. Prospect Ave. Danville, CA 94526	Arnold & Porter LLP Alex Beroukhim 777 South Figueroa Street, 44th Floor Los Angeles, CA 90017

### 18. What is the difference between objecting and asking to be excluded?

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Objecting is telling the Court that you don't like something about the Modified Settlement. You can object only if you don't exclude yourself from the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## THE LAWYERS REPRESENTING YOU

### 19. Do I have a lawyer in the case?

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Yes, the Court has appointed the following to represent all Settlement Class Members as “Class Counsel:”

Birka-White Law Offices 65 Oak Court Danville, CA 94526 Telephone: (925) 362-9999 Facsimile: (925) 362-9970	Lieff Cabraser Heimann & Bernstein, LLP 275 Battery Street, 29th Floor San Francisco, CA 94111 Telephone: (415) 956-1000 Facsimile: (415) 956-1008
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You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 20. How will the lawyers be paid?

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Class Counsel will request attorneys’ fees and costs up to \$237,500 for the Modified Settlement. The Court will decide the amount of attorneys’ fees and costs to award.

## THE FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Modified Settlement and any requests for fees and expenses. You may attend and you may ask to speak, but you do not have to.

### 21. When and where will the Court decide whether to approve the Modified Settlement?

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The Court will hold a Fairness Hearing at 00:00 x.m. on [Day of Week] (Notice Start Date + 100 days) at 450 Golden Gate Avenue, Courtroom 1, 17th Floor, San Francisco, CA 94102. The hearing may be moved by the Court to a different date or time without additional mailed notice to you, so it is a good idea to check [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com) or call 1-844-360-2767 for updates about the hearing. At this hearing, the Court will consider whether the Modified Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. The motion for attorney’s fees and costs and class representative service payments will be posted on [www.BPSolarSettlement.com](http://www.BPSolarSettlement.com). After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

**22. Do I have to attend the hearing?**

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No. Class Counsel will answer questions the Court may have. But you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. You may also hire a lawyer to attend, but it is not required.

**23. May I speak at the hearing?**

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You may ask the Court for permission to speak at the Fairness Hearing. If you are objecting and intend to request permission to speak, you should include that request in your written objection (*see* Question 17).

**GETTING MORE INFORMATION**

**24. How do I get more information?**

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This notice summarizes the proposed Modified Settlement. More details are in the Modified Settlement Agreement. You can get a copy of the Modified Settlement Agreement or Claim Form at:

**[www.BPSolarSettlement.com](http://www.BPSolarSettlement.com)**

You also may write with questions to:

**BP Solar Panel Settlement  
c/o JND Legal Administration  
PO Box 6878  
Broomfield, CO 80021**

Or call the toll-free number: **1-844-360-2767**.