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himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED

MARCHE MEEKS, on behalf of himself and
others similarly situated,

Plaintiff,

v.

THE SHERWIN-WILLIAMS COMPANY, an
Ohio corporation,

Defendant.

Case No. 23CV-02082

[Assigned for all purposes to Honorable Brian
McCabe]

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

*[Filed concurrently with Not of Mot. and Mot.
for Preliminary Approval, Memorandum of
Points and Authorities in Support Thereof,
Declarations of Justin Kachadoorian, Marche
Meeks, and Jeffrey Hansen]*

Hearing
Date: July 26, 2023
Time: 8:15 a.m.
Place: Courtroom 8

FILED
2023 JUL 26 PM 1:56
CLERK OF THE SUPERIOR COURT
BY *[Signature]* DEPUTY

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~~PROPOSED~~ ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

This Motion of Plaintiff Marche Meeks (“Plaintiff”) for Preliminary Approval of Class Action Settlement came on for hearing before this Court on July 27, 2023, at 8:15 a.m. The Court, having considered the Settlement Agreement, attached as Exhibit A to the Declaration of Justin Kachadoorian filed concurrently with this Motion, Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, memorandum of points and authorities in support thereof, and supporting declaration filed therewith, and good cause appearing, **HEREBY ORDERS THE FOLLOWING:**

1. The Court **GRANTS** preliminary approval of the class action settlement as set forth in the Settlement Agreement and finds its terms to be within the range of reasonableness of a settlement that ultimately could be granted approval by the Court at a Final Approval hearing. The Court preliminarily approves the terms of the Settlement Agreement and finds that they fall within the range of approval as fair, adequate, and reasonable. Based on a review of the papers submitted by Plaintiff, the Court finds that the settlement is the result of arm’s-length negotiations conducted after Plaintiff and/or his counsel adequately investigated the claims and became familiar with the strengths and weaknesses of the claims. The assistance of an experienced mediator in the settlement process supports the Court’s conclusion that the settlement is non-collusive and reasonable. The settlement is presumptively valid, subject only to any objections that may be raised pursuant to the terms of the Settlement Agreement.

2. Solely for purposes of the settlement the Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently well-defined community of interest among the Settlement Class Members in questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional certification of the following Settlement Class as follows:

Settlement Class - All persons who purchased products from a California Sherwin-Williams store, or who purchased products online while in California, between September 20, 2021 and January 31, 2022 and were charged a 4% supply-chain surcharge; persons purchasing on a commercial account shall be excluded from the class.

1 3. For purposes of the settlement, the Court designates Marche Meeks as Settlement
2 Class Representative, and designates CounselOne, P.C. as Settlement Class Counsel.

3 4. The Court designates KCC LLC as the third-party Settlement Administrator for
4 disseminating notices.

5 5. The Court approves the Class Notice and Claim Form substantially in the form and
6 content attached as Exhibits 1-5 of the Settlement Agreement.

7 6. The Court finds that the form of notice to the Settlement Class Members regarding
8 the pendency of the action and of the Settlement Agreement and the methods of giving notice to
9 Settlement Class Members constitute the best notice practicable under the circumstances and
10 constitute valid, due, and sufficient notice to all Settlement Class Members. The form and method
11 of giving notice complies fully with the requirements of California Code of Civil Procedure section
12 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions,
13 and other applicable law.

14 7. The Court further approves the procedures for Settlement Class Members to opt out
15 of or object to the settlement, as set forth in the Class Notice and the Settlement Agreement.

16 8. The procedures and requirements for submitting objections in connection with the
17 Final Approval hearing are intended to ensure the efficient administration of justice and the orderly
18 presentation of any Settlement Class Member's objection to the settlement, in accordance with the
19 due process rights of all Settlement Class Members.

20 9. The Court directs the Settlement Administrator to send the Class Notice to
21 Settlement Class Members, and to cause notice to be published, in accordance with the terms of
22 the Settlement Agreement.

23 10. The Final Approval hearing on the question of whether the Settlement Agreement
24 should be finally approved as fair, reasonable, and adequate is scheduled on
25 Nov. 22, 2029 at 6:15 (a.m.) p.m. in Courtroom 8 of this Court, located at 627 W
26 21st Street, Merced, CA 95340. The Court may hold the hearing remotely. The Court reserves
27 the right to continue the date of the Final Approval hearing without further notice to Settlement
28 Class Members. The Court retains jurisdiction to consider all further applications arising out of or

1 in connection with the Settlement Agreement.

2 11. At the Final Approval hearing, the Court will consider: (a) whether the Settlement
 3 Agreement should be approved as fair, reasonable, and adequate for the Settlement Class; (b)
 4 whether a judgment granting final approval of the Settlement Agreement should be entered; and
 5 (c) whether Plaintiff's request for a service award, the costs of settlement administration, and Class
 6 Counsel's attorneys' fees and costs should be granted.

7 12. Counsel for the Parties shall file memoranda, declarations, or other statements and
 8 materials in support of their request for final approval of the settlement and Plaintiff's request for
 9 service award, the costs of settlement administration, and Class Counsel's attorneys' fees and costs
 10 prior to the Final Approval hearing according to the time limits set by the Code of Civil Procedure
 11 and the California Rules of Court.

12 13. An implementation schedule is below (assuming that the Court grants preliminary
 13 approval of the settlement on July 26, 2023):

Event	Date
Defendants to provide class data list to Settlement Administrator no later than:	August 10, 2023 (15 days after order granting preliminary approval) (Settlement Agreement ¶ 24)
Settlement Administrator to send Class Notice to the Settlement Class Members no later than:	September 9, 2023 (30 days after Defendants provide class data to Settlement Administrator) (Settlement Agreement ¶ 27)
Deadline for Settlement Class Members to submit claim form, opt out, or object to the settlement:	October 24, 2023 (45 days after Settlement Administrator disseminates Class Notice) (Settlement Agreement ¶¶ 34, 36, 37)
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	November 14, 2023 (no later than 16 court days before the Final Approval Hearing)
Final Approval Hearing:	<input type="checkbox"/> December 8, 2023 at 8:15 a.m. / p.m. <input type="checkbox"/> _____

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 26 14. Pending the Final Approval hearing, all proceedings in this action, other than
 27 proceedings necessary to carry out or enforce the terms and conditions of the settlement and this
 28 Order, are stayed.

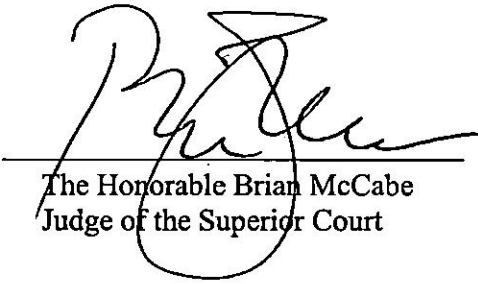
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15. Counsel for the Parties are hereby authorized to use all reasonable procedures in connection with the administration of the settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

16. In the event the settlement is not finally approved, or otherwise does not become effective in accordance with the terms of the Settlement Agreement, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Settlement Agreement.

IT IS SO ORDERED.

Dated: JUL 26 2023


The Honorable Brian McCabe
Judge of the Superior Court