

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

ROBERT TORCH and JESUS GOMEZ,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

WINDSOR SURRY COMPANY, d/b/a  
WINDSORONE; WINDSOR WILLITS  
COMPANY, d/b/a WINDSOR MILL; and  
WINDSOR HOLDING COMPANY,

Defendants.

Case No. 3:17-cv-00918-AA (**LEAD CASE**)

3:17-cv-01868-AA (Member Case)

**ORDER GRANTING MOTION FOR  
PRELIMINARY APPROVAL**

**ORDER**

The parties in the above-captioned action, including Plaintiffs Robert Torch and Jesus Gomez in this litigation, and Plaintiff Brian Begley in the New Hampshire litigation on the one hand, and Defendants Windsor Surry Company, d/b/a WindsorONE; Windsor Willits Company, d/b/a Windsor Mill; and Windsor Holding Company (collectively “Windsor” or “Defendants”) on the other, have reached a settlement that is set forth in the Stipulation of Settlement filed with this Court.

Pending before the Court is the parties’ Motion for Preliminary Approval. Having carefully reviewed the Settlement Agreement, including the exhibits attached thereto, the concurrently filed pleadings and supporting documents, and all papers, pleadings, records, and prior proceedings to date in this action, and good cause appearing, the Court hereby **GRANTS** preliminary approval and **ORDERS** as follows:

1. As an initial matter, for purposes of this Preliminary Approval Order, except as otherwise indicated herein, the Court adopts and incorporates the definitions contained in the Settlement Agreement.

2. The Agreement set forth in the parties’ Settlement is within the range of reasonableness and possible final approval in that it appears fair, reasonable, and adequate. The parties’ Agreement was reached as a result of extensive arm’s length negotiations between the parties and their counsel, taking into consideration the relative strength and weaknesses of their case.

A. The Court provisionally certifies, for settlement purposes only, a class defined as: all persons who currently have WindsorONE Traditional finger jointed pre-primed wood trim installed on the exterior of their homes or structures in the United States or its territories, excluding (a) any officers, directors or employees, or immediate family members of the officers, directors or employees, of any Defendant or any entity in which a Defendant has a controlling interest, (b) any legal counsel or employee of legal counsel for any Defendant, and (c) the presiding Judge in either Lawsuit, as well as the Judges’ staff and their immediate family members.

3. The requirements for certification of the Settlement Class under Fed. R. Civ. P. 23(a), (b)(2), and (b)(3) have been satisfied for settlement purposes. The Court finds, for settlement purposes, pursuant to Rule 23(a): (i) the numerosity requirement is satisfied; (ii) there are questions of law and fact that are common to the Settlement Class; (iii) the claims of the Plaintiffs are typical of the claims of the Settlement Class they seek to represent for purposes of settlement; and (iv) Plaintiffs and Class Counsel are adequate representatives of the class. The Court finds, pursuant to Rule 23(b)(2): Windsor has acted or refused to act on grounds that apply generally to the Settlement Class, so that final injunctive relief is appropriate. The Court further finds, pursuant to Rule 23(b)(3): (i) questions of law and fact common to the Settlement Class predominate over any questions affecting any individual Settlement Class Member; and (ii) a class settlement is superior to other available means of adjudicating this dispute

4. The Court provisionally appoints Plaintiffs Robert Torch and Jesus Gomez, as well as New Hampshire Plaintiff Brian Begley as Class Representatives of the Settlement Class.

5. The Court provisionally appoints Audet & Partners, LLP; Levin, Sedran & Berman; Baillon Thome Jozwiak & Wanta LLP as Class Counsel.

6. Since the Agreement set forth in the Parties' Settlement is within the range of reasonableness and possible Final Approval, Notice should be provided to the Settlement Class pursuant to the proposed Notice Plan.

7. The Court approves the Notice Plan and Long Form Notice. The Court finds that the Notice Plan is the best practicable method to provide notice to potential class members, under the circumstances, and constitutes valid and sufficient notice to the Settlement Class.

8. The Court appoints Angeion Group LLC and Constructive Claims Solution, Inc. well-qualified and experienced notice providers and claims administrators, to disseminate notice and act as Settlement Administrator, respectively. The Angeion Group LLC shall commence providing notice no later than Feb 28, 2022.

9. If a Settlement Class Member wishes to exclude himself or herself from the Agreement or Object to the Settlement, the Class Member must file a Request for Exclusion or Objection to the Settlement no later than April 29, 2022, in the manner set forth in Section 11 of the Stipulation of

Settlement. All Settlement Class Members who do not timely submit a valid Request for Exclusion will be bound by the Final Approval and Judgment, and enjoined from bringing or prosecuting any action relating to the Released Claims.

10. The Court will hold a Final Approval Hearing on June 28, 2022 at 1:30 pm to determine whether the Settlement should be approved as fair, reasonable, and adequate, whether attorneys' fees, expenses and incentive awards should be approved, and to determine whether a Final Approval Order and Judgment should be entered. The Final Approval Hearing will either be held before the Honorable Ann Aiken, United States District Judge, at the United States District Court for the District of Oregon, Eugene Division, 405 East 8<sup>th</sup> Ave, Eugene, OR 97401, or electronically via teleconference or videoconference. The alternative hearing methods are necessitated by the restrictions in place resulting from the COVID pandemic. The method of the Final Approval Hearing will be posted on the settlement website prior to the hearing as soon as available.

11. Class Counsel shall file their motion for fees, costs, and incentive awards no later than May 27, 2022.

12. Any objections by Settlement Class Members to Class Counsel's application for attorneys' fees, costs, and incentive awards shall be filed no later than June 3, 2022 in the manner set forth in Section 11(c) of the Stipulation of Settlement.

13. The parties shall file and serve papers in supporting of their application for Final Approval of the Settlement no later than June 14, 2022. Any opposition and reply papers shall be filed pursuant to Local Rule 7.

14. No later than June 14, 2022, the Settlement and Claims Administrators shall certify to the Court that it has complied with the notice requirements set forth herein and shall attach a list of the persons who have excluded themselves in a valid and timely manner from the Settlement Class.

15. The parties shall, pursuant to the terms and conditions of the Stipulation of Settlement, take all necessary and appropriate steps to establish the terms and conditions of the Stipulation of Settlement and this Preliminary Approval Order.

16. Pending the Final Approval Hearing, all proceedings, other than the proceedings necessary to carry out or enforce the terms and conditions of the Agreement and Preliminary Approval

Order as related to this matter are stayed, and Settlement Class Members are enjoined from bringing or prosecuting any action relating to the Released Claims.

**IT IS SO ORDERED.**

Dated: January 28, 2022

/s/Ann Aiken  
THE HONORABLE ANN AIKEN  
UNITED STATES DISTRICT JUDGE