

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**IN RE: INTERIOR MOLDED DOORS
INDIRECT PURCHASER ANTITRUST
LITIGATION**

Lead Civil Action No. 3:18-cv-00850-JAG

**INDIRECT PURCHASER PLAINTIFFS' MOTION FOR FINAL APPROVAL OF
SETTLEMENT**

Indirect Purchaser Plaintiffs ("IPPs"), on behalf of the Settlement Class (ECF No. 340 at 2), respectfully move the Court to approve the Settlement Agreement (ECF No. 226-1) with Defendants JELD-WEN, Inc. and Masonite Corporation. In support of this motion, Plaintiffs submit a Memorandum of Law In Support of Motion for Final Approval of Settlement, the Declaration of Steven N. Williams in Support of Motion for Final Approval of Settlement and the exhibits thereto, the Declaration of Brandon Schwartz Regarding the Status of Notice And Settlement Administration and the exhibits thereto, the Proposed Order Granting Final Approval of Settlement, and the Proposed Final Judgment Approving Settlement Agreement Between Indirect Purchaser Plaintiffs and Defendants and Entering Dismissal With Prejudice as to Defendants.

Dated: May 3, 2021

Respectfull submitted,

/s/
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(admitted *pro hac vice*)

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically e-mail notification of such filing to all counsel of record.

To the best of my knowledge, there are no other attorneys or parties who require service by U.S. Mail.

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**IN RE: INTERIOR MOLDED DOORS
INDIRECT PURCHASER ANTITRUST
LITIGATION**

Lead Case Action No. 3:18-cv-00850-JAG

**[PROPOSED] ORDER GRANTING INDIRECT PURCHASER PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF SETTLEMENT**

This matter came before the Court on Indirect Purchaser Plaintiffs' ("IPPs") Motion for Final Approval of Settlement¹ ("Motion"). Pursuant to notice given to the Settlement Class in accordance with the Court's order, see ECF No. 340, a hearing was held on IPPs' Motion on July 13, 2021, and at the conclusion of the hearing, the Court granted IPPs' Motion. For the reasons stated by the Court at the hearing and as provided in this Order, the Court finds the Settlement provides an excellent result for the Settlement Class given, among other factors, the substantial risk of litigation and that the Settlement is fair, reasonable, and adequate to the Settlement Class.

I. Background

This action arises from an alleged conspiracy between Defendants Masonite and JELD-WEN – the only two vertically integrated manufacturers of Doorskins and Interior Molded Doors ("IMDs") – to fix the prices of Interior Molded Doors. IPPs assert claims for relief under the Sherman Antitrust Act, 15 U.S.C. § 1, and various state antitrust, unjust enrichment, and consumer protection laws.

The Court entered an Order preliminarily approving the Settlement on February 5, 2021. See ECF No. 340 ("Preliminary Approval Order"). The Settlement provides a cash value of

¹ All capitalized terms not otherwise defined have the meanings set forth in the Settlement Agreement (ECF No. 226-1)

\$19.5 million to be distributed to the Settlement Class after the deduction of attorneys' fees, costs and expenses, and Plaintiff Service Awards. The Settlement Class is defined as follows:

All persons and entities that, during the Settlement Class Period, indirectly purchased one or more Standalone Interior Molded Doors in the Indirect Purchaser States, that were manufactured or sold by either Defendant, not for resale. Excluded from the Settlement Class are the following:

- (a) The officers, directors or employees of any Defendant;
- (b) Any entity in which any Defendant has a controlling interest, and any affiliate;
- (c) Legal representatives, heirs, or assigns of any Defendant; and
- (d) Purchasers of Standalone Interior Molded Doors directly from Menards.

The Settlement identifies those jurisdictions that allow IPPs, who are indirect purchasers, to seek money damages or restitution.² IPPs, through their Court-appointed Notice Expert, Postlethwaite & Neterville APAC ("P&N") implemented a class-notice program utilizing paid and earned media. *See* ECF No340; ECF 297 (Declaration of Brandon Schwartz Regarding Proposed Notice Plan and Administration).

The Notice Program gave sufficient notice to the Settlement Class utilizing a combination of print, online display, social media, YouTube, national press release, direct notice to businesses from a purchased list, digital newsletters, digital notice geofence targeted to Home Depot and Lowe's locations, a Settlement Website (www.InteriorMoldedDoorSettlement.com), and a toll-free settlement hotline. *See* ECF 297; Declaration of Brandon Schwartz Regarding the Status of Notice and Settlement Administration, dated May 3, 2021.

² Arizona, Arkansas, California, Florida, Hawaii, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Utah, West Virginia, and Wisconsin. *See* Settlement Agreement, ¶ 8.

IPPs propose to pay each Settlement Class Member that submits a valid claim a minimum of \$25 with any Settlement Funds remaining after costs, attorneys' fees, and service awards being distributed to approved claimants *pro rata* based on the number of qualifying Stand-Alone IMDs they purchased.

II. Standard of Review

A court may approve a settlement that would bind class members only after a hearing and on finding that the settlement is "fair, reasonable, and adequate." *Lumber Liquidators*, 952 F.3d at 484 (citing Fed. R. Civ. P. 23(e)(2)). To determine whether the proposed settlement is "fair, reasonable, and adequate," courts consider whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - (iii) the terms of any proposed award of attorney's fees, including timing of payment;
 - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

III. Analysis

A. Factors Governing Supporting Final Approval

Under Rule 23(e), the Settlement Agreement is fair in that IPPs and Settlement Class Counsel adequately represented the Settlement Class. IPPs' interests are the same as those of the

Settlement Class Members, and Settlement Class Counsel have extensive experience in handling class action antitrust and other complex litigation. Settlement Class Counsel negotiated the Settlement Agreement at arm's length with well-respected and experienced counsel for the Defendants. These negotiations spanned months. Additionally, there is no indication of any separate agreements between Settlement Class Counsel and Defendants—such as agreements for attorneys' fees and costs—that may indicate collusion. Thus, there is a presumption that settlement negotiations were conducted in good faith and that the resulting agreement was reached without collusion. *Lumber Liquidators*, 952 F.3d at 484-85 (citing *Berry v. Schulman*, 807 F.3d 600, 614 (4th Cir. 2015)) (fairness analysis primarily intended to ensure settlement is not collusive and results from arm's-length negotiations).

In addition, the Settlement was reached when the case was at an advanced stage, with fact discovery closed and expert discovery nearly complete, and the Parties had fully briefed IPPs' motion for class certification. Because the Settlement Agreement was negotiated at arm's length by experienced counsel knowledgeable about the facts and the law after extensive discovery and motion practice, consideration of these factors fully supports final approval of the Settlement Agreement.

The Court also finds that the settlement consideration is fair, adequate and reasonable in light of the risks of continued litigation.

B. The Settlement Class Satisfies Federal Rule of Civil Procedure 23(a)

Plaintiffs have shown that they have satisfied the four elements of Rule 23(a): (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of

the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a).

C. The Settlement Class Satisfies Federal Rule of Civil Procedure 23(b)(3)

The plaintiffs have also demonstrated that they have satisfied Rule 23(b)(3) in this antitrust case, as “questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and ... a class action is superior to other available methods for the fair and efficient adjudication of the controversy.” *In re Titanium Dioxide Antitrust Litig.*, 284 F.R.D. 328, 340 (D. Md. 2012), *amended*, 962 F. Supp. 2d 840 (D. Md. 2013) (quoting Fed. R. Civ. P. 23(b)(3)).

THE COURT HEREBY ORDERS AND FINDS AS FOLLOWS:

1. For the reasons stated above, the Court **CERTIFIES** the Settlement Class.
2. The Settlement is finally approved as being a fair, reasonable, and adequate class action settlement.
3. The Parties have fully implemented the procedures for notice to the Settlement Class pursuant to the Notice Order.
4. The Settlement Administrator is authorized to proceed with the allocation and distribution of benefits to eligible Settlement Class Members as set forth in the Settlement Agreement. The proposed plan does not unfairly favor any Settlement Class Member, or group of Settlement Class Members, to the detriment of others.
5. The terms of the Parties’ Settlement Agreement for the Settlement are hereby incorporated into this Order.
6. Robins Kaplan LLP, Gustafson Gluek PLLC and The Joseph Saveri Law Firm, LLP are appointed Settlement Class Counsel.

IT IS SO ORDERED this _____ day of _____, 2021.

Hon. John A. Gibney
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**IN RE: INTERIOR MOLDED DOORS
INDIRECT PURCHASER ANTITRUST
LITIGATION**

Lead Civil Action No. 3:18-cv-00850-JAG

**[PROPOSED] FINAL JUDGMENT APPROVING SETTLEMENT AGREEMENT
BETWEEN INDIRECT PURCHASER PLAINTIFFS AND DEFENDANTS AND
ENTERING DISMISSAL WITH PREJUDICE AS TO DEFENDANTS**

This matter has come before the Court to determine whether there is any cause why this Court should not approve the Settlement Agreement between Indirect Purchaser Plaintiffs (“IPPs”) and Defendants JELD-WEN, Inc. (“JELD-WEN”) and Masonite Corporation (“Masonite”) (collectively, “Defendants”) set forth in the Settlement Agreement, dated September 4, 2020, relating to the Action. The Court, after carefully considering all papers filed and proceedings held herein and otherwise being fully informed, has determined that (1) the Settlement Agreement should be approved, and (2) there is no just reason for delay of the entry of this final judgment approving the Settlement Agreement (“Judgment”). Accordingly, the Court directs entry of Judgment which shall constitute a final adjudication of this case on the merits as to the parties to the Agreement. Good cause appearing therefor, it is:

ORDERED, ADJUDGED, AND DECREED THAT:

1. The definitions of terms set forth in the Settlement Agreement are incorporated herein as though fully set forth in this Judgment.
2. Pursuant to Federal Rule of Civil Procedure (“Rule”) 23(g), Robins Kaplan LLP, Gustafson Gluek PLLC, and Joseph Saveri Law Firm, previously appointed by the Court as Interim Co-Lead Class Counsel, are appointed as Counsel for the Settlement Class. These firms have, and will, fairly and competently represent the interests of the Settlement Class.

3. The Court has jurisdiction over the subject matter of this litigation, over the Action, and over the parties to the Settlement Agreement, including all members of the Settlement Class.

4. Plaintiffs, having filed a complaint in the Action alleging that the Defendants conspired to artificially increase and fix the prices for Interior Molded Doors, and the Defendants, having denied IPPs' allegations and having represented they would assert defenses thereto, have entered into the Settlement Agreement to settle the Action without admitting liability, to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation; to obtain the releases, orders, and judgment contemplated by the Settlement Agreement; and to put to rest with finality any and all claims that have been or could have been asserted against the Defendants arising out of or related to the allegations in this Action. Pursuant to the Settlement Agreement, the Defendants have agreed to provide specified monetary compensation to IPPs (\$9,750,000.00 by each Defendant (\$19,500,000.00 total for both Defendants)).

5. The Court hereby finally approves and confirms the settlement set forth in the Settlement Agreement and finds that said settlement is, in all respects, fair, reasonable, and adequate to the Settlement Class pursuant to Rule 23.

6. The Court hereby dismisses on the merits and with prejudice the individual and class claims asserted against the Defendants, with IPPs and the Defendants to bear their own costs and attorneys' fees except as provided herein.

7. All persons and entities that are Releasers are hereby barred and enjoined from commencing, prosecuting, or continuing, either directly or indirectly, in an individual, representative, or derivative capacity, against the Releasees, in this or any other jurisdiction, any

and all claims, causes of action, or lawsuits, which they had, have, or in the future may have, arising out of or related to any of the Released Claims as defined in the Settlement Agreement.

8. The Releasees are hereby and forever released and discharged with respect to any and all claims or causes of action which the Releasors had, have, or in the future may have, arising out of or related to any of the Released Claims as defined in the Settlement Agreement at paragraph 29.

9. Neither the Settlement Agreement, nor any act performed or document executed pursuant to the Settlement Agreement, may be deemed or used as an admission of wrongdoing in any civil, criminal, administrative, or other proceeding in any jurisdiction.

10. The notice given to the Settlement Class of the settlement set forth in the Settlement Agreement and the other matters set forth herein was the best notice practicable under the circumstances. Said notice provided due and adequate notice of the proceedings and of the matters set forth therein, including the proposed settlement set forth in the Settlement Agreement, to all persons and entities entitled to such notice, and said notice fully satisfied the requirements of Rules 23(c)(2) and 23(e) and the requirements of due process.

11. Without affecting the finality of this Judgment in any way, the Court hereby retains exclusive jurisdiction over: (a) the enforcement of this Judgment; (b) the enforcement of the Settlement Agreement; (c) any application for distribution of funds, attorneys' fees, or reimbursement of costs and expenses made by Interim Co-Lead Class Counsel; (d) any application for service awards for the Plaintiffs; and (e) the distribution of the settlement proceeds to members of the Settlement Class.

12. [No one has timely and validly requested exclusion from the Settlement Class.—OR--Claimants that have validly requested exclusion from the Settlement Class are set out in Exhibit A to this Order.]

13. In the event that the settlement does not become effective in accordance with the terms of the Settlement Agreement, then this Judgment shall be rendered null and void and shall be vacated, and in such event, all orders entered and releases delivered in connection herewith shall be null and void, and the parties shall be returned to their respective positions ex ante, except that IPPs shall not be obligated to reimburse Defendants for expenses incurred in connection with notice and administration of the Settlement Agreement up to \$500,000 for each Defendant.

14. Defendants' cash payments under the Settlement Agreement are \$9,750,000.00 for JELD-WEN and \$9,750,000.00 for Masonite. JELD-WEN will deposit \$9,250,000.00 and Masonite will deposit \$9,250,000.00 (i.e., the Settlement Amount less the \$500,000.00 previously deposited by each Defendant for expenses incurred by Co-Lead Class Counsel in connection with notice and administration of the Settlement Class) into the Escrow Account previously established in the Court's preliminary approval order, not later than ten (10) business days after the entry of this Final Approval Order. That account is, and remains, a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

15. The Court finds, pursuant to Rules 54(a) and (b) that this Judgment should be entered and further finds that there is no just reason for delay in the entry of this Judgment as a final judgment as to the parties to the Agreement.

16. Accordingly, the Court hereby determines that there is no just reason for delay and hereby directs entry of this Judgment as a final judgment pursuant to Rule 54(b) and directs the Clerk to enter Judgment forthwith.

IT IS SO ORDERED.

DATED: _____, 2021

Hon. John A. Gibney
United States District Judge

**[EXHIBIT “A” TO FINAL APPROVAL ORDER AND JUDGMENT
PERSONS AND ENTITIES REQUESTING EXCLUSION
FROM THE SETTLEMENT CLASS]**