

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

DUSTIN EVANS, Individually And On )  
Behalf Of All Other Similarly Situated, )  
Plaintiff, )

v. )

MOHAWK INDUSTRIES, INC., )  
JEFFREY S. LORBERBAUM, )  
FRANK H. BOYKIN, and WILLIAM )  
CHRISTOPHER WELLBORN, )  
Defendants. )

C.A. No. N20C-01-259 AML

---

**STIPULATION OF SETTLEMENT**

This Stipulation of Settlement (the "Stipulation") in the action captioned *Evans v. Mohawk Industries, Inc., et al.*, C.A. No. N20C-01-259 AML (the "Action"), pending before the Superior Court of the State of Delaware (the "Court"), is entered into by and between Plaintiff Dustin Evans ("Plaintiff"), defendants Mohawk Industries, Inc. ("Mohawk"), and Messrs. Jeffrey S. Lorberbaum, Frank H. Boykin, and William Christopher Wellborn (collectively, the "Defendants"), by and through their respective counsel. The Stipulation is intended by Plaintiff and Defendants (collectively, the "Parties") to fully, finally, and forever resolve, discharge, release and settle the Released Claims, as defined below, upon and subject to the terms and conditions hereof, and is submitted pursuant to Del. R. Civ. P. Super. Ct. 23 for approval by this Court.

**I. SUMMARY OF CLAIMS AND PROCEDURAL HISTORY**

This is a securities class action on behalf of all those who purchased or otherwise acquired Mohawk common stock in the Mohawk Industries Retirement Plan 1 and Mohawk Industries Retirement Plan 2 between April 27, 2017 and July 25, 2019 (the "Class Period") pursuant or traceable to Mohawk's August 11, 2016 Form S-8 registration statement (the "Registration

Statement”). This action asserts claims under Sections 11 and 12(a)(2) of the Securities Act of 1933 (the “Securities Act”) against Mohawk and certain current and former Mohawk officers and directors. No class has been certified in the Action.

Plaintiff claims that Defendants are liable under Sections 11 and 12(a)(2) of the Securities Act by reason of material misrepresentations and omissions in documents incorporated by reference in the Registration Statement. Specifically, Plaintiff alleges documents incorporated into the Registration Statement, including Mohawk’s 2015 Annual Report, Form 10-Qs for Q2 and Q3 2016, Form 8-Ks filed in 2016, and the 2015 Annual Report for the Retirement Plans, failed to disclose (i) Mohawk purportedly engaged in deceptive and unsustainable sales practices to mask declining customer demand for its traditional product offering including ceramic, stone, laminate, carpet, wood, and vinyl flooring (the “Conventional Flooring Products”); (ii) Mohawk’s revenue growth was allegedly not attributable to product differentiation and innovation or growing demand for Conventional Flooring Products, but rather due to unsustainable channel stuffing of Conventional Flooring Products; and (iii) Mohawk’s increasing accounts receivable was not the result of channel mix and its increasing inventories was not the result of product growth and expansion, but instead the result of the Company deliberately stuffing the channels with Conventional Flooring Products to boost sales.

On January 30, 2020, Plaintiff filed the initial complaint (“Complaint”), C.A. No. N20C-01-259 AML, in this Court (“Action”).

On March 3, 2020, by mutual agreement, the Action was stayed on through the earlier of the close of fact discovery in a related securities class action pending in the federal District Court for the Northern District of Georgia captioned *Public Employees’ Retirement System of Mississippi*

*v. Mohawk Industries, Inc.*, No. 4:20-cv-00005-VMC (the “NDGA Class Action”) or the deadline for appealing a dismissal of the NDGA Class Action with prejudice.

In an effort to conserve judicial resources and attempt to settle the Action, the Parties attended a mediation with Former Judge Layn R. Phillips of Phillips ADR Enterprises where the Parties engaged in arms-length settlement negotiations. On June 9, 2022, the Parties reached an agreement in principle to settle the Action, subject to the negotiation of a Stipulation of Settlement and approval by the Court. This Stipulation (together with the exhibits hereto) reflects the final and binding agreement between the Parties.

## **II. PLAINTIFF’S INVESTIGATION AND THE BENEFITS OF SETTLEMENT**

Plaintiff’s Counsel, as defined below, represents that it has conducted an extensive investigation of the claims alleged in this Action. Among other things, Plaintiff’s Counsel has analyzed public filings, records, documents, and other materials concerning Defendants; and researched the applicable law with respect to the claims of Plaintiff and the Class, as defined below, against Defendants and the potential defenses thereto.

Based on their investigation and review, Plaintiff and Plaintiff’s Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable, and adequate to the Class and in its best interests, and have agreed to settle the claims raised in the Action pursuant to the terms and provisions of this Stipulation, after considering: (a) the substantial benefits that Plaintiff and the Class will receive from settlement of the Action; (b) the risks, costs, and uncertainties of ongoing litigation; (c) the desirability of permitting the Settlement to be consummated as provided by the terms of this Stipulation; and (d) Plaintiff’s Counsel’s experience in the prosecution of similar actions.

The Parties to this Stipulation and their counsel agree not to contend in any forum that the Action was brought or defended in bad faith, without a reasonable basis, or in violation of any law or statute. The Action is being voluntarily settled after advice of counsel and after Plaintiff's Counsel have determined and believe that the terms of the Settlement are fair, adequate, and reasonable to the Class.

### **III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

Defendants have denied and continue to deny each and all of the claims and contentions alleged by Plaintiff in this Action. Defendants expressly have denied and continue to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in this Action. Defendants also have denied and continue to deny, *inter alia*, the allegations that Plaintiff or members of the Class have suffered damage or were otherwise harmed by the conduct alleged in this Action. Defendants have asserted and continue to assert that the Registration Statement contained no material misstatements or omissions. Defendants have asserted and continue to assert, among other things, that they acted at all times in good faith and in a manner reasonably believed to be in accordance with all applicable rules, regulations, and laws. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Action.

Defendants are entering into this Settlement to eliminate the burden and expense of further litigation. Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Action. Defendants have, therefore, determined that it is desirable and beneficial to them that the Action be settled in the manner and upon the terms and conditions set forth in this Stipulation.

This Stipulation shall in no event be construed or deemed to be evidence of, or an admission or concession on the part of any Defendant with respect to, any claim or of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in the defenses that Defendants have asserted.

#### **IV. TERMS OF THE STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW THEREFORE, without any admission or concession on the part of Plaintiff of any lack of merit of the Action whatsoever, and without any admission or concession of any liability or wrongdoing or lack of merit in the defenses whatsoever by Defendants, it is hereby STIPULATED AND AGREED, by and among the Parties to this Stipulation, through their undersigned attorneys, subject to approval by the Court, in consideration of the benefits flowing to the Parties hereto from the Settlement, that all Released Claims (as defined below) as against the Released Persons (as defined below) and all of Released Defendants' Claims (as defined below) shall be compromised, settled, released, and discharged, upon and subject to the following terms and conditions:

##### **1. Certain Definitions**

As used in this Stipulation, the following terms shall have the following meanings:

1.1 "Action" means *Evans v. Mohawk Industries, Inc., et al.*, C.A. No. N20C-01-259 AML (the "Action"), pending before the Superior Court of the State of Delaware (the "Court").

1.2 "Claims Administrator" means Simpluris, Inc. or such other entity as the Court shall appoint to administer the Settlement.

1.3 "Class" and "Class Members" means any or all Persons who purchased or otherwise acquired Mohawk common stock in the Mohawk Industries Retirement Plan 1 and Mohawk Industries Retirement Plan 2 during the Class Period pursuant or traceable to Mohawk's August 11, 2016 Form S-8 registration statement (the "Registration Statement"). Excluded from

the Class are: Defendants (as defined herein) and their respective successors and assigns; past and current executive officers and directors of Defendants; members of the immediate families of the Defendants; the legal representatives, heirs, successors, or assigns of the Defendants; and any entity in which any of the above excluded persons have or had a majority ownership interest.

1.4 “Company” means Mohawk and its predecessors, successors, parents, subsidiaries, divisions or affiliates.

1.5 “Court” means the Superior Court for the State of Delaware.

1.6 “Defendants” means Mohawk and Messrs. Jeffrey S. Lorberbaum, Frank H. Boykin, and William Christopher Wellborn.

1.7 “Detailed Notice” means the Notice of Class Action Determination, Proposed Settlement and Hearing Thereon which is to be posted to the Claims Administrator’s website dedicated to providing details of the Settlement, substantially in the form attached hereto as Exhibit A-1.

1.8 “Defendants’ Counsel” means the law firms of Alston & Bird LLP, and Richards, Layton, & Finger, P.A.

1.9 “Effective Date of Settlement” or “Effective Date” means the date upon which all of the events and conditions set forth in ¶10.1 below have been met and have occurred.

1.10 “Escrow Account” means an interest-bearing escrow account established by the Escrow Agent to receive the Settlement Amount.

1.11 “Escrow Agent” means Huntington Bancshares Incorporated or its respective successor(s).

1.12 “Fee and Expense Award” means the amount of attorneys’ fees and expenses awarded by the Court as described in ¶5.1.

1.13 “Final” with respect to the Judgment or Alternative Judgment means: (i) if no appeal is filed, the expiration date of the time provided for filing or petitioning for any appeal; or (ii) if there is an appeal from the Judgment, the date of (a) final dismissal of all such appeals, or the final dismissal of any proceeding on certiorari or otherwise to review the Judgment; or (b) the date the Judgment is finally affirmed on appeal; and (1) the expiration of the time to file a petition for writ of certiorari or other form of review; (2) the denial of a writ of certiorari or other form of review of the Judgment; or (3) if certiorari or other form of review is granted, the date of final affirmance of the Judgment following review pursuant to that grant. However, any appeal or proceeding seeking subsequent judicial review pertaining solely to an order issued with respect to (i) attorneys’ fees, costs or expenses; or (ii) the Plan of Allocation (as submitted or subsequently modified) shall not in any way delay or preclude the Judgment from becoming Final.

1.14 “Judgment” means the proposed judgment to be entered approving the Settlement, substantially in the form attached hereto as Exhibit B.

1.15 “Net Settlement Fund” means the Settlement Fund less: (i) Court awarded attorneys’ fees; (ii) notice and administration expenses; (iii) any required Taxes and Tax Expenses (as defined below); (iv) Court awarded litigation expenses; and (v) any case contribution award granted to Plaintiff by the Court or other fees or expenses approved by the Court.

1.16 “Notice Order” means the proposed order preliminarily approving the Settlement and directing notice thereof to the Class, substantially in the form attached hereto as Exhibit A.

1.17 “Person” means an individual, corporation, partnership, limited partnership, limited liability partnership, association, joint stock company, limited liability company or corporation, professional corporation, estate, legal representative, trust, unincorporated association,

government or any political subdivision or agency thereof, and any business or legal entity and his, her or its spouses, heirs, predecessors, successors, representatives, or assignees.

1.18 “Plaintiff” means Dustin Evans.

1.19 “Plaintiff’s Counsel” means those firms that have appeared on behalf of the putative Class in the Action: Bielli & Klauder, LLC and Gainey McKenna & Egleston.

1.20 “Plan Administrator” means the entity responsible for managing the Mohawk Industries Retirement Plan 1 and Mohawk Industries Retirement Plan 2 during the Class Period.

1.21 “Plan of Allocation” means the plan described in the Detailed Notice or any alternate plan approved by the Court whereby the Net Settlement Fund (as defined above in ¶1.15) shall be distributed to the Class, substantially in the form annexed hereto as Exhibit C. Any Plan of Allocation is not part of the Stipulation, and the Released Persons shall have no responsibility therefore or liability with respect thereto.

1.22 “Registration Statement” means the August 11, 2016 Form S-8 registration statement filed with the U.S. Securities and Exchange Commission.

1.23 “Related Parties” means each of a Defendant’s past, present, or future direct or indirect parents, subsidiaries, divisions, affiliates, or joint ventures, as well as each of their respective present or former directors, officers, employees, partners, members, principals, agents, underwriters, insurers, co-insurers, reinsurers, controlling shareholders, attorneys, accountants, auditors, financial or investment advisors or consultants, banks or investment bankers, personal or legal representatives, predecessors, successors, assigns, spouses, heirs, related or affiliated entities, any entity in which a Defendant has a controlling interest, any member of a Defendants’ immediate family, any trust of which any Defendant is the settlor or which is for the benefit of any Defendant



and/or member(s) of his or her family, and the legal representatives, heirs, successors in interest, or assigns of the Defendants.

1.24 “Released Claims” means any and all claims, demands, rights, actions or causes of action, liabilities, debts, demands, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters, and issues of any kind or nature whatsoever (including Unknown Claims as defined below) against Defendants and their Related Parties, that both (a) arise out of, relate to, or connect with in any way, any of the allegations, acts, transactions, facts, events, matters, occurrences, statements, representations, or alleged misrepresentations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged by Class Members, and (b) arise out of, are based upon, or relate to in any way, the purchase, acquisition, holding, sale, or disposition of Mohawk common stock, including but not limited to Mohawk common stock purchased or otherwise acquired pursuant and/or traceable to the Registration Statement. “Released Claims” also includes any and all claims arising out of, relating to, or in connection with the settlement or resolution of the Action against the released Parties (including Unknown Claims), except claims to enforce any of the terms of this Stipulation. For avoidance of doubt, Released Claims does not include claims that have been asserted in the actions captioned *Public Employees’ Retirement System of Mississippi v. Mohawk Industries, Inc. et al.*, No. 4:20-cv-00005-VMC (N.D. Ga.); *Maverick Fund, LTD., et al. v. Mohawk Industries, Inc., et al.*, No. 4:21-cv-00118-VMC (N.D. Ga.); *Fir Tree Value Master Fund, L.P. v. Mohawk Industries, Inc., et al.*, No. 4:22-cv-00098-VMC (N.D. Ga.); *Hound Partners Offshore Fund, LP, et al. v. Mohawk Industries, Inc., et al.*, No. 4:22-cv-00073-VMC (N.D. Ga.); *Value Recapture Partners LLC v. Mohawk Industries, Inc., et al.*, No. 2021CV355195 (Superior Court of Fulton County, Ga.); *Incline Global Master LP, et al. v. Mohawk Industries, Inc., et al.*, No. 2021CV355197 (Superior Court of Fulton

County, Ga); *Corvex Master Fund, L.P., et al. v. Mohawk Industries, Inc., et al.*, No. 2021CV355094 (Superior Court of Fulton County, Ga); *Soroban Opportunities Master Fund LP v. Mohawk Industries, Inc., et al.*, No. 2021CV355090 (Superior Court of Fulton County, Ga); *Palestra Capital Master Fund, LP v. Mohawk Industries, Inc., et al.*, No. 22EV002767 (Superior Court of Fulton County, Ga); *In re Mohawk Industries, Inc. Derivative Litigation*, No. 4:20-cv-00110-ELR (N.D. Ga.); *Treibits v. Lorberbaum et al.*, No. 21-cv-71127 (Superior Court of Gordon County); *City of Southfield Fire & Police Ret. Sys. v. Lorberbaum et al.*, No. 21-cv-71519; and *Taylor v. Lorberbaum et al.*, No. 2022-0224-LWW (Superior Court of Gordon County).

1.25 “Released Defendants’ Claims” means all claims, including “Unknown Claims” as defined below, that any Defendant or its successors, assigns, executors, administrators, representatives, attorneys, and agents in their capacity as such may have against Plaintiff, Class Members, or Plaintiff’s Counsel relating to the institution, prosecution or settlement of the Action (except for claims to enforce any of the terms of this Stipulation). For avoidance of doubt, “Released Defendants’ Claims” do not include claims between or among Defendants or any combination of Defendants, including claims for indemnification or contribution.

1.26 “Released Persons” means Defendants and each and all of their Related Parties.

1.27 “Settlement” means the settlement on the terms set forth in this Stipulation.

1.28 “Settlement Amount” means the sum of \$1,000,000 to be deposited into an Escrow Account pursuant to ¶3.1.

1.29 “Settlement Fairness Hearing” means the hearing scheduled by the Court to determine whether (i) the Settlement is fair, reasonable, and adequate; (ii) the Plan of Allocation is fair, reasonable, and adequate; and (iii) Plaintiff Counsel’s request for an award of attorneys’ fees and expenses, including an award to Plaintiff, is reasonable.

1.30 “Settlement Fund” means the Settlement Amount plus any interest or income earned thereon.

1.31 “Summary Notice” means the Summary Notice of Proposed Class Action Settlement, which is to be sent to members of the Class via U.S. Mail, substantially in the form attached hereto as Exhibit A-2.

1.32 “Unknown Claims” means any and all claims and potential claims against Defendants which Plaintiff or any Class Member does not know or suspect to exist in their, his, her, or its favor as of the Effective Date, and any Released Claims against Plaintiff which Defendants do not know or suspect to exist in their favor, which if known by them, him, her, or it might have affected their, his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Released Defendants’ Claims, the Parties stipulate and agree that by operation of the Final Judgment, upon the Effective Date, Plaintiff and Defendants shall have expressly waived, and each Class Member shall be deemed to have waived, and by operation of the Final Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by or under Cal. Civ. Code §1542 (“§1542”) or any other law of the United States or any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to §1542, which provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Plaintiff and Class Members may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiff shall expressly fully, finally, and forever settle and release, and each

Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff and Defendants acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Released Defendants’ Claims was separately bargained for and was an essential element of the Settlement.

## **2. Scope and Effect of Settlement**

2.1 The obligations incurred pursuant to this Stipulation shall be in full and final disposition of: (i) this Action against Defendants; (ii) any and all Released Claims as against all Released Persons; and (iii) any and all Released Defendants’ Claims.

2.2 Upon the Effective Date of this Settlement, Plaintiff and all Class Members, on behalf of themselves, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever waived, released, and discharged all Released Claims against the Released Persons.

(a) Upon the Effective Date of this Settlement, each and every Class Member and any Person claiming through or on behalf of them will be permanently and forever barred and enjoined from commencing, instituting, prosecuting, or continuing to prosecute any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or any other forum, asserting the Released Claims against the Released Persons.

(b) Upon the Effective Date of this Settlement, each of the Defendants and their successors, assigns, executors, administrators, representatives, attorneys, and agents in their capacity as such shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released and discharged Plaintiff, Plaintiff's Counsel and each and all of the Class Members from each and every one of the Released Defendants' Claims.

(c) Notwithstanding the provisions of ¶¶2.2(a) through (b) hereof, in the event that any of the Released Persons asserts against Plaintiff, any Class Member, or their respective counsel, any claim that is a Released Defendants' Claim, then such Plaintiff or Class Member, or counsel shall be entitled to use and assert such factual matters included within the Released Claims only against such Released Person in defense of such claim, but not for the purposes of affirmatively asserting any claim against any Released Person.

(d) Notwithstanding the provisions of ¶¶2.2(a) through (b) hereof, in the event that Plaintiff or any member of the Class asserts against any of the Released Persons or their respective counsel any claim that is a Released Claim, then such Released Person or counsel shall be entitled to use and assert such factual matters included within the Released Defendants' Claims only against such Plaintiff or Class Member in defense of such claim, but not for the purposes of affirmatively asserting any claim against Plaintiff or any Class Member.

(e) The releases provided in this Stipulation shall become effective immediately upon occurrence of the Effective Date without the need for any further action, notice, condition or event.

### **3. The Settlement Consideration**

3.1 Defendants will cause to be paid the Settlement Amount in accordance with instructions to be provided by the Escrow Agent within fifteen (15) business days from either:

(1) preliminary approval of the settlement by the Court, or (2) the date on which Plaintiff provides to the Mohawk Defendants (i) the payment information (including ACH payment instructions and SWIFT code), (ii) Form W-9 Request for Taxpayer Identification Number and Certification for Plaintiff, and (iii) the name and contact information for an individual who can confirm the payment information, whichever date is later. If the Settlement Amount is not timely paid, the unpaid balance shall earn interest at the rate of 5% per annum until paid. The Parties agree that the Settlement Fund is intended to be a “Qualified Settlement Fund” within the meaning of Treasury Regulation 26 CFR §1.468B-1. The account funds, less any amounts incurred for notice, administration, and/or Taxes and Tax expenses, plus any accrued interest thereon, shall revert to the person(s) making the deposits if the Settlement does not become effective for any reason, including by reason of a termination of the Settlement pursuant to ¶10.3 herein. The Settlement Fund includes any interest earned thereon.

3.2 Plaintiff and Class Members shall look solely to the Settlement Fund as satisfaction of all claims that are released hereunder. Defendants shall have no obligation under this Stipulation or the Settlement to pay any additional amounts, and upon payment funding, Defendants shall have no other obligation to pay or reimburse any fees, expenses, costs, liability, or damages whatsoever alleged or incurred by Plaintiff, by any Class Member, or by any of their attorneys, experts, advisors, agents, or representatives with respect to the Action and Released Claims. Any award made by the Court pursuant to the Fee and Expense Application referred to in ¶5.1 hereof shall be paid exclusively from the Settlement Fund; and Defendants shall have no obligation with respect to any allocation between or among Plaintiff’s Counsel, or with respect to any payment to any Plaintiff’s Counsel, of any fees, expenses, costs, or interest. Plaintiff and Class Members acknowledge that as of the Effective Date, the releases given herein shall become effective

immediately by operation of the Final Judgment and shall be permanent, absolute and unconditional.

3.3 The Settlement Fund, net of any Taxes (as defined below), shall be used to pay: (i) the notice and administration costs of the Settlement referred to in ¶4.2 hereof; (ii) any award made by the Court pursuant to the Fee and Expense Application referred to in ¶5.1 hereof; and (iii) the remaining administration expenses referred to in ¶4.2 hereof and any other attorney and administrative costs, fees, payments, or awards subsequently approved by the Court. The balance of the Settlement Fund after the above payments shall be the Net Settlement Fund, which shall be distributed to the Class as provided in ¶¶6.1-6.3 hereof. Any portions of the Settlement Fund required to be held in escrow prior to the Effective Date shall be held by the Escrow Agent for the Settlement Fund. The Settlement Fund held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the Net Settlement Fund shall be distributed to the Class or returned to Defendants pursuant to this Stipulation and/or further order of the Court. The Escrow Agent shall not disburse the Settlement Fund, or any portion thereof, except as provided in this Stipulation, or upon Order of the Court. The Escrow Agent shall be responsible for investing the Settlement Fund in eligible investments, meaning obligations issued or guaranteed by the United States of America or any agency or instrumentality thereof, backed by the full faith and credit of the United States, or fully insured by the United States Government or an Agency thereof, and the Escrow Agent shall reinvest the proceeds of these obligations or instruments as they mature in similar instruments at their then-current market rates. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund.

3.4 For the purpose of §468B of the Internal Revenue Code (26 U.S.C. §468B) and the Treasury regulations thereunder, the Escrow Agent shall be designated as the “administrator” of the Settlement Fund. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described below) shall be consistent with this paragraph and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.

(a) All: (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon Defendants or their Related Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “Qualified Settlement Fund” for federal or state income tax purposes (“Taxes”); and (ii) all other tax expenses incurred in the operation of and implementation of this paragraph, including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution expenses related to filing or failing to file the returns described in this paragraph (“Tax Expenses”) shall promptly be paid out of the Settlement Fund by the Escrow Agent without prior order from the Court. The Escrow Agent shall also be obligated to, and shall be responsible for, withholding from distribution to Class Members any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses. The Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this paragraph.



(b) Except to the extent Plaintiff's Counsel are acting in their capacity as Escrow Agent, neither the Parties nor their counsel shall have any responsibility for or liability whatsoever with respect to: (i) any act, omission, or determination of the Escrow Agent or the Claims Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement Fund or otherwise; (ii) the Plan of Allocation; (iii) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; or (iv) the payment or withholding of any Taxes, Tax Expenses, and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

#### **4. Administration**

4.1 The Claims Administrator shall administer and calculate the claims and oversee distribution of the Settlement Fund subject to such supervision of Plaintiff's Counsel and/or the Court as the circumstances may require. The Claims Administrator agrees to be subject to the jurisdiction of the Court with respect to the administration of the Settlement and the distribution of the Settlement Fund pursuant to the terms of this Stipulation. Prior to disbursement of the Net Settlement Fund to the Plan, Defendants shall provide the Claims Administrator and Plan Administrator with the data reasonably necessary to determine the amount of the Net Settlement Fund to be distributed to each Class Member in accordance with this Plan of Allocation. Defendants shall require the Plan Administrator to assist the Claims Administrator in providing information and the assistance needed to allocate the settlement funds into any existing Plan accounts. The Claims Administrator will not make any distributions to Class Members from the Net Settlement Fund until the Judgment becomes Final and all the conditions described in ¶10.1 herein have been satisfied.

4.2 Plaintiff's Counsel may pay from the Settlement Fund, without further approval from Defendants or the Court, the reasonable costs and expenses associated with notice to the Class, and the administration of the Settlement, including, without limitation, the actual costs of notice, and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice. Within thirty (30) calendar days of entry of the Notice Order, the Company shall provide or cause to be provided to the Claims Administrator, at no cost, its list of addresses and emails of shareholders in Mohawk Industries Retirement Plan 1 and Mohawk Industries Retirement Plan 2 as appropriate for providing notice to the Class.

## **5. Fee and Expense Application**

5.1 Plaintiff's Counsel will submit an application or applications (the "Fee and Expense Application") to the Court for an award from the Settlement Fund of: (i) attorneys' fees and the payment of litigation expenses incurred in connection with the prosecution of the Action, plus interest on both amounts at the same rate and period as earned on the Settlement Fund (until paid) as may be awarded by the Court; and (ii) a case contribution award to the Plaintiff as may be awarded by the Court in connection with Plaintiff's representation of the Class. Attorneys' fees, expenses, and interest as are awarded by the Court shall be paid from the Settlement Fund to Plaintiff's Counsel immediately upon entry by the Court of an order awarding such amounts, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof. Plaintiff's Counsel may thereafter allocate such fees among themselves (including their respective partners, shareholders and/or firms) subject to their obligation to repay those amounts to the Settlement Fund plus accrued interest at the same net rate as is earned by the Settlement Fund, if and when, as a result of any appeal and/or further proceedings on remand, or successful collateral attack, the fee or cost award

is reduced or reversed or return of the Settlement Fund is required consistent with the provisions of ¶10.3 hereof. In such event, Plaintiff's Counsel shall, within ten (10) business days from the event which requires repayment of the fee or expense award, refund to the Settlement Fund the fee and expense award paid to them, along with interest, as described above. Furthermore, all Plaintiff's Counsel (including their respective partners, shareholders and/or firms) agree that they remain subject to the continuing jurisdiction of the Court for the purpose of enforcing their obligation to repay required attorneys' fees and expenses to the Settlement Fund as provided in this paragraph.

5.2 Notwithstanding any other provision of this Stipulation to the contrary, the Fee and Expense Application to be paid out of the Settlement Fund shall be considered by the Court separate and apart from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceeding relating to the Fee and Expense Application, or any appeal of any order relating thereto or reversal or modification thereof, shall not operate to, or be grounds to, terminate or cancel this Stipulation or the Settlement of the Action, or affect or delay the finality of the Judgment approving this Settlement.

## **6. Distribution to Class**

6.1 The Claims Administrator shall determine each Class Member's *pro rata* share of the Net Settlement Fund as defined in the Plan of Allocation described in the Notice annexed hereto as Exhibit C, or in such other plan of allocation as the Court approves.

6.2 The Plan of Allocation set forth in the Notice is not a necessary term of this Stipulation and it is not a condition of this Stipulation that any particular plan of allocation be approved. The Released Persons will take no position with respect to the proposed Plan of Allocation or such plan of allocation as may be approved by the Court. The Plan of Allocation is

a matter separate and apart from the Settlement between the Parties and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the proposed Settlement.

6.3 Each Class Member shall be allocated a *pro rata* share of the Net Settlement Fund. Class Members who have an active account in one or more of the Plans shall receive a deposit of any *pro rata* share to which they are entitled directly into their existing Plan account(s) by the Plan Administrator. Any Class Members who did not have an active account in one or more of the Plan accounts(s) shall receive a check for their pro rata share from the Claims Administrator mailed to their last address listed with the Plan Administrator or such other different address which they supply to the Claims Administrator. The Settlement is non-recapture, *i.e.*, it is not a claims-made settlement. Defendants shall not be entitled to get back any of the settlement monies, or interest earned thereon, once the Judgment becomes Final and all the conditions set forth in ¶10.1 herein have been satisfied. The Released Persons shall have no involvement in reviewing, evaluating, or challenging claims and shall have no responsibility or liability for determining the allocation of any payments to any Class Members or for any other matters pertaining to the Plan of Allocation.

6.4 Nothing in this Settlement shall restrict the ability of any Party hereto to advocate in favor or against the applicability of any offset to any claims asserted in any other action based on any amount paid herein.

## **7. Stipulation to Class Certification of the Settlement Class and Administration of the Settlement**

7.1 The Parties stipulate and agree that for settlement purposes only this Action shall proceed as a non-opt out class action pursuant to Delaware Rules of Civil Procedure 23(a)(1)-(4), and (b)(3), with Plaintiff's Counsel as lead counsel and with a Class as defined in ¶1.3 herein.

7.2 No Person shall have any claim against the Released Persons, Defendants' Counsel, Plaintiff, Plaintiff's Counsel, or the Claims Administrator or any other Person designated by

Plaintiff's Counsel, based on determinations or distributions made substantially in accordance with this Stipulation and the Settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

7.3 The Net Settlement Fund shall be distributed to the Class Members substantially in accordance with the Plan of Allocation described in the Notice and approved by the Court. If there is any balance remaining in the Net Settlement Fund after a reasonable period of time from the date of distribution of the Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), Plaintiff's Counsel shall, if economically feasible, reallocate such balance among Class Members in an equitable and economic fashion.

7.4 Except for Defendants' obligation to cause the Settlement Amount to be paid, if applicable, Defendants shall have no liability, obligation, or responsibility for the administration of the Settlement or disbursement of the Net Settlement Fund.

7.5 The Net Settlement Fund shall be distributed by the Claims Administrator to, or for the account of, Class Members, as the case may be, only after the Effective Date and after all matters with respect to the Fee and Expense Application have been resolved by the Court, all appeals therefrom have been resolved or the time therefore has expired.

## **8. Terms of Order for Notice and Hearing**

8.1 Promptly after this Stipulation has been fully executed, Lead Counsel shall apply to the Court by motion for notice of entry of the Notice Order, substantially in the form annexed hereto as Exhibit A.

## **9. Terms of Judgment**

9.1 If the Settlement contemplated by this Stipulation is approved by the Court, Plaintiff's Counsel shall request that the Court enter a Judgment, substantially in the form annexed hereto as Exhibit B.

**10. Effective Date of Settlement, Waiver or Termination**

10.1 The Effective Date of Settlement shall be the date when all the following shall have occurred:

- (a) the Court has entered the Notice Order in all material respects;
  - (b) the Settlement Amount has been deposited into the Escrow Account pursuant to ¶3.1;
  - (c) Neither Party has exercised its option to terminate this Settlement;
  - (d) the Court has certified the Settlement Class as a non-opt-out class meeting the applicable requirements for a settlement class imposed by Delaware Rule of Civil Procedure 23;
  - (e) final approval by the Court of the Settlement, following notice to the Class;
- and
- (f) entry by the Court of a Judgment, substantially in the form of Exhibit B annexed hereto, and the Judgment becomes Final, or, in the event that the Court enters a judgment in a form other than that provided above (“Alternative Judgment”) and neither Plaintiff nor any Defendant elects to terminate this Settlement, the date that such Alternative Judgment becomes Final.

10.2 Plaintiff and each of the Defendants, through their respective counsel, shall, in each of their separate discretions, but in all events subject to ¶5.2 herein, have the right to terminate the Settlement and this Stipulation, as to themselves, by providing written notice of their election to do so (“Termination Notice”) to all other Parties hereto within thirty (30) calendar days of: (a) the Court’s final non-appealable refusal to enter the Notice Order in any material respect; (b) the Court’s final non-appealable refusal to approve this Stipulation or any material part of it; (c) the

Court's non-appealable refusal to enter the Judgment in any material respect; (d) the date on which the Judgment is modified or reversed by a court of appeal or any higher court in any material respect; or (e) the date on which an Alternative Judgment is modified or reversed by a court of appeal or any higher court in any material respect. Without limitation, any reduction in the scope of the definition of "Class," "Class Members," "Released Claims," "Released Persons," or "Related Parties" are hereby deemed to be material.

10.3 Except as otherwise provided herein, in the event the Settlement is terminated in accordance herewith, the judgment is vacated, or the Effective Date fails to occur for any reason, then the Parties shall be deemed to have reverted to their respective status in the Action as of March 7, 2023, the fact and terms of the Settlement shall not be admissible in any trial of the Action, and, except as otherwise expressly provided, the Parties shall proceed in all respects as if this Stipulation and any related orders had not been entered, and any portion of the Settlement Amount previously paid by or on behalf of Defendants, together with any interest earned thereon (and, if applicable, re-payment of any attorneys' fee and expense award referred to in ¶5.1 hereof), less any Taxes and Tax Expenses due, if any, with respect to such income, and less costs of administration and notice actually incurred and paid or payable from the Settlement Amount shall be returned to the party, parties, or insurer that paid the Settlement Amount as directed by Mohawk within ten (10) business days from the date of the event causing such termination.

## **11. No Admission of Wrongdoing**

11.1 Defendants deny that they have committed any act or omission giving rise to any liability and/or violation of law, and state that they are entering into this Settlement to eliminate the burden and expense of further litigation. This Stipulation, whether or not consummated,

including any and all of its terms, provisions, exhibits and prior drafts, and any negotiations or proceedings related or taken pursuant to it:

(a) shall not be offered or received against Defendants as evidence of, or evidence supporting a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against Defendants, in any civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the Court and becomes effective pursuant to its terms, Defendants may refer to it to effectuate the liability protection granted them hereunder, and nothing in this Settlement shall restrict the ability of any Party hereto to advocate in favor or against the applicability of any offset to any claims asserted in any other action based on any amount paid herein;

(b) shall not be construed as or received in evidence as an admission, concession, or presumption against Plaintiff or any of the Class Members that any of their claims are without merit, or that any defenses asserted by Defendants have any merit, or that damages recoverable under the Complaint in this Action, or any subsequent operative complaint filed in this Action would not have exceeded the Settlement Fund; and

(c) notwithstanding the foregoing, Defendants, Plaintiff, Class Members, and/or the Released Persons may file the Stipulation and/or the Final Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.



## **12. Miscellaneous Provisions**

12.1 All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein.

12.2 The Parties intend the Settlement to be a final and complete resolution of all disputes asserted or which could be asserted by Plaintiff and/or any Class Member against the Released Persons with respect to the Released Claims. Accordingly, Plaintiff and Defendants agree not to assert in any forum that the litigation was brought by Plaintiff or defended by Defendants in bad faith or without a reasonable basis. The Parties further agree not to assert in any forum that any party or their counsel violated any law, rule, or statute relating to the prosecution, defense, or settlement of the Action. The Parties agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length in good faith by the Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.

12.3 This Stipulation may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Parties hereto.

12.4 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

12.5 The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders relating to the Fee and Expense Application, the Plan of Allocation and enforcing the terms of this Stipulation.

12.6 This Stipulation shall not constitute a consent to service or to the jurisdiction of this Court or any other court for any purpose, including any other matter concerning the Released

Claims, and shall not be construed as such, other than for the sole and limited purpose of the Settlement and the enforcement of its terms.

12.7 The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation.

12.8 This Stipulation and its exhibits and the Supplemental Agreement constitute the entire agreement among the Parties hereto concerning the Settlement of the Action, and no representations, warranties, or inducements have been made by any party hereto concerning this Stipulation and its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

12.9 This Stipulation may be executed in one or more counterparts and the signatures may be by facsimile, or electronically. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties shall exchange among themselves original signed counterparts.

12.10 This Stipulation shall be binding upon, and inure to the benefit of, the successors, assigns, executors, administrators, heirs, and legal representatives of the Parties hereto. No assignment shall relieve any party hereto of obligations hereunder.

12.11 The construction, interpretation, operation, effect and validity of this Stipulation, and all documents necessary to effectuate it, shall be governed by the laws of the State of California, without regard to conflicts of laws, except to the extent that federal law requires that federal law governs, and in accordance with the laws of the United States.

12.12 This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared by counsel for one of

the Parties, it being recognized that it is the result of arm's-length negotiations between the Parties and all Parties have contributed substantially and materially to the preparation of this Stipulation.

12.13 All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to the Stipulation to effectuate its terms.

12.14 The Settlement contemplated herein is not subject to or contingent upon confirmatory discovery or other additional discovery beyond that already undertaken in the Action.

12.15 Plaintiff, Defendants, and their counsel shall not make any applications for sanctions, pursuant to any applicable rule, code, or statute, with respect to any claims or defenses in this Action.

12.16 Plaintiff's Counsel and Defendants' counsel agree to cooperate reasonably with one another in seeking Court approval of the order for notice and hearing, the Stipulation and the Settlement, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the Settlement.

12.17 Any planned, proposed, or actual sale, merger, or change-in-control of Mohawk shall not void this Stipulation. The Stipulation shall run to the Parties' respective successors-in-interest. In the event of a planned, proposed, or actual sale, merger, or change-in-control of Mohawk, the Settling Parties shall continue to seek court approval of the Settlement expeditiously, including, but not limited to, the Settlement terms reflected in this Stipulation and the Fee and Expense Application.

12.18 In the event any proceedings by or on behalf of Mohawk, whether voluntary or involuntary, are initiated under any chapter of the United States Bankruptcy Code, including an

act of receivership, asset seizure, or similar federal or state law action (“Bankruptcy Proceedings”), the Settling Parties agree to use their reasonable best efforts to obtain all necessary orders, consents, releases, and approvals for effectuation of this Stipulation in a timely and expeditious manner. In the event of any Bankruptcy Proceedings by or on behalf of Mohawk, the Settling Parties agree that all dates and deadlines set forth herein will be extended for such periods of time as are necessary to obtain necessary orders, consents, releases and approvals from the bankruptcy court to carry out the terms and conditions of the Stipulation.

12.19 After prior notice to the Court, but without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any provisions of this Stipulation.

IN WITNESS WHEREOF, the Parties hereto have caused this Stipulation to be executed, by their duly authorized attorneys.

Dated: March 7, 2023

*Ryan M. Ernst*

Ryan M. Ernst (#4788)  
rernst@bk-legal.com  
BIELLI & KLAUDER, LLC  
1204 N. King Street  
Wilmington, DE 19801  
Telephone: (302) 803-4600

Gregory M. Egleston  
gegleston@gme-law.com  
Thomas J. McKenna  
tjmckenna@gme-law.com  
GAINNEY McKENNA & EGLESTON  
501 Fifth Avenue, 19<sup>th</sup> Floor  
New York, NY 10017  
Telephone: (212) 983-1300  
Facsimile: (212) 983-0383

***Counsel for Plaintiff***

*John D. Hendershot*

John D. Hendershot (#4178)  
hendershot@rlf.com  
Christine D. Haynes (#4697)  
haynes@rlf.com  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
Telephone: (302) 651-7700

Robert R. Long  
robert.long@alston.com  
Elizabeth Gingold Clark  
elizabeth.clark@alston.com  
Courtney E. Quirós  
courtney.quirós@alston.com  
ALSTON & BIRD  
One Atlantic Center  
1201 West Peachtree Street

Atlanta, GA 30309  
Telephone: (404) 881-7000

***Counsel for Defendants***

# **EXHIBIT A**

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

DUSTIN EVANS, Individually And On )  
Behalf Of All Other Similarly Situated, )  
Plaintiff, )  
v. ) C.A. No. N20C-01-259 AML  
MOHAWK INDUSTRIES, INC., )  
JEFFREY S. LORBERBAUM, )  
FRANK H. BOYKIN, and WILLIAM )  
CHRISTOPHER WELLBORN, )  
Defendants. )  
\_\_\_\_\_)  
)  
)  
)  
)

**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION  
SETTLEMENT, PRELIMINARILY CERTIFYING A CLASS FOR  
SETTLEMENT PURPOSES, APPROVING FORM AND MANNER OF CLASS  
NOTICE, PRELIMINARILY APPROVING PLAN OF ALLOCATION AND  
SCHEDULING A DATE FOR A FINAL APPROVAL HEARING**

This is a putative securities class action brought by Dustin Evans (“Named Plaintiff”) on behalf of all persons or entities that purchased shares of Mohawk’s common stock in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 (hereinafter, the “Plan”) between April 27, 2017 and July 25, 2019, inclusive (the “Class Period”) pursuant or traceable to Mohawk’s August 11, 2016 Form S-8 registration statement (the “Registration Statement”). The claims asserted herein are alleged against Mohawk Industries, Inc. (“Mohawk”), and Messrs. Jeffrey S. Lorberbaum, Frank H. Boykin, and William Christopher Wellborn (collectively, “Defendants”), and arise under Section 11 and 12 of the Securities Act of 1933 (the “Securities Act”). No class has been certified.

The terms of the Settlement are set out in the Stipulation of Settlement, fully executed as of March 7, 2023, 2023 (the “Settlement Agreement”), by counsel on behalf of the Named Plaintiff and Defendants, respectively.

Pursuant to the Named Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, Preliminary Certification of a Class for Settlement Purposes, Approving Form and Manner of Class Notice, Preliminarily Approving Plan of Allocation, and Scheduling a Date for a Final Approval Hearing filed on \_\_\_\_\_, 2023, the Court preliminarily considered the Settlement to determine, among other things, whether the Settlement is sufficient to warrant the issuance of notice to members of the proposed Settlement Class. Upon reviewing the Settlement Agreement and the matter having come before the Court at the \_\_\_\_\_ hearing, due notice having been given and the Court having been fully advised in the premises, it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:



1. **Preliminary Certification of the Settlement Class.** In accordance with the Settlement Agreement, and pursuant to Delaware Rules of Civil Procedure 23(a)(1)-(4), and (b)(3), this Court hereby conditionally certifies the following non-opt out class (the “Class”):

All Persons who purchased or otherwise acquired the publicly traded common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 (hereinafter “the Plan”) during the time period between April 27, 2017 and July 25, 2019, inclusive (the “Class Period”). Excluded from the Class are Defendants and their families, directors, and officers of Mohawk and their families and affiliates.

2. Pursuant to the Settlement Agreement, and for settlement purposes only, the Court preliminarily finds that:

- (a) as required by Delaware Rule of Civil Procedure 23(a)(1), the Settlement Class is ascertainable from records kept with respect to the Plan and from other objective criteria, and the Class is so numerous that joinder of all members is impracticable.
- (b) as required by Delaware Rule of Civil Procedure 23(a)(2), there are one or more questions of law and/or fact common to the Class.
- (c) as required by Delaware Rule of Civil Procedure 23(a)(3), the claims of the Plaintiffs are typical of the claims of the Class that Plaintiffs seek to certify.
- (d) as required by Delaware Rule of Civil Procedure 23(a)(4), that the Plaintiffs will fairly and adequately protect the interests of the Class in that: (i) the interests of the Plaintiffs and the nature of the alleged claims are consistent with those of the Class Members; and (ii) there appear to be no conflicts between or among the Plaintiffs and the Class.

(e) as required by Delaware Rule of Civil Procedure 23(b)(3), the Court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matter pertinent to the findings include: (A) The interest of members of the Class in individually controlling the prosecution or defense of separate actions; (B) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class; (C) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) The difficulties likely to be encountered in the management of a class action.

3. The Court preliminarily appoints the Named Plaintiff as the class representative for the Settlement Class and Gainey McKenna & Egleston as Class Counsel for the Class.

4. The Court preliminarily approves the proposed Plan of Allocation, finding it is fair, reasonable, and adequate.

5. **Preliminary Approval of Proposed Settlement.** The Settlement Agreement is hereby preliminarily approved as fair, reasonable, and adequate. This Court preliminarily finds that: (a) the proposed Settlement resulted from serious, informed, extensive and arm's-length negotiations between the Parties and their counsel with the assistance of the Settling Mediator; (b) the Settlement Agreement was executed only after Class Counsel had conducted appropriate investigation and discovery regarding the strengths and weaknesses of Named Plaintiff's claims; (c) Class Counsel represent that they have concluded that the proposed Settlement is fair, reasonable, and adequate; and (d) the proposed Settlement is in the best interest of the Named

Plaintiff and the Settlement Class. The Court finds that those whose claims would be settled, compromised, dismissed, or released pursuant to the Settlement should be given notice and an opportunity to be heard regarding final approval of the Settlement and other matters.

6. **Final Approval Hearing.** A hearing is scheduled for \_\_\_\_\_ to make a final determination, concerning among other things:

- Whether the Settlement merits final approval as fair, reasonable, and adequate;
- Whether the Action should be dismissed with prejudice pursuant to the terms of the Settlement;
- Whether the notice method proposed by the Parties: (i) constitutes the best practicable notice; (ii) constitutes notice reasonably calculated, under the circumstances, to apprise members of the Class of the pendency of the litigation, their right to object to the Settlement, and their right to appear at the Final Approval Hearing; (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to notice; and (iv) meets all applicable requirements of the Delaware Rules of Civil Procedure and any other applicable law;
- Whether Class Counsel adequately represented the Class for purposes of entering into and implementing the Settlement;
- Whether the proposed Plan of Allocation should be finally approved; and
- Whether Class Counsel's application(s) for attorneys' fees and expenses and Case Contribution Award to the Named Plaintiff is fair and reasonable, and should be approved.

7. **Class Notice.** The Parties have presented to the Court proposed form of Detailed Notice, attached hereto as Exhibit A-1 and a summary of the Detailed Notice in the form of a

Summary Notice, attached hereto as Exhibit A-2. The Court finds that both such forms of notice fairly and adequately: (a) describe the terms and effects of the Settlement Agreement, the Settlement, and the Plan of Allocation; (b) notify the Class that Class Counsel will seek attorneys' fees and litigation costs from the Settlement Fund, payment of the costs of administering the Settlement out of the Settlement Fund, and for a Case Contribution Award of up to \$10,000 for the Named Plaintiff for his service in such capacity; (c) give notice to the Class of the time and place of the Final Approval Hearing; and (d) describe how the recipients of the class Notice may object to any of the relief requested. The Parties have proposed the following manner of communicating the notice to members of the Class, and the Court finds that such proposed manner is the best notice practicable under the circumstances. Accordingly, the Court directs that Class Counsel shall:

- By no later than thirty (30) days after the date of this Order, cause the Detailed Notice, with such non-substantive modifications thereto as may be agreed upon by the Parties, to be posted to the dedicated website created by the Claims Administrator to provide details of the Settlement found at [www.mohawkesppplanclassactionsettlement.com](http://www.mohawkesppplanclassactionsettlement.com), which dedicated website shall also include the Stipulation of Settlement with all of its supporting exhibits.
- to be published via a press release for national distribution in the United States, which press release will also include the ticker symbol for Mohawk publicly traded common stock.
- By no later than thirty (30) days after the date of this Order, cause the Summary Notice to be provided by first-class mail, postage prepaid, to the last known address of each member of the Class who can be identified through reasonable effort.

- By no later than forty-five (45) days before the Final Approval Hearing, proof that the various forms of Notice were distributed as required by this Order shall be filed by counsel for the Plaintiff.

8. **Petition for Attorney's Fees and Litigation Costs and Case Contribution Awards.** Any petition by Class Counsel for attorney's fees, litigation costs and Case Contribution Award to the Named Plaintiff, and all briefs in support thereof, shall be filed no later than twenty-eight (28) days before the Final Approval Hearing.

9. **Briefs in Support of Final Approval of the Settlement.** Briefs and other documents in support of Final Approval of the Settlement shall be filed no later than twenty-eight (28) days before the Final Approval Hearing.

10. **Objections to Settlement.** Any member of the Class may file an objection to the fairness, reasonableness, or adequacy of the Settlement, to any term of the Settlement Agreement, to the Plan of Allocation, to the proposed award of attorneys' fees and litigation costs, the payment of costs of administering the Settlement out of the Settlement Fund, or to the request for a Case Contribution Award for the Named Plaintiff. An objector must file with the Court a statement of his, her, or its objection(s), specifying the reason(s), if any, for each such objection made, including proof that the objector is either a current or former participant in the Plan and purchased the publicly traded common stock of Mohawk during the Class Period, together with any legal support and/or evidence that the objector wishes to bring to the Court's attention or introduce in support of the objection(s) no later than twenty-one (21) days before the Final Approval Hearing. The objector must also mail copies of the objection(s) and any supporting law and/or evidence to Class Counsel and to counsel for the Defendants no later than seven (7) days before the Final Approval

Hearing. The addresses for filing objections with the Court and serving objections on counsel are as follows:

For Filing:  
In The Superior Court Of The State Of Delaware  
1 The Cir #2,  
Georgetown, DE 19947

Re: *Evans v. Mohawk Industries. et al.*,  
Civil Action No. 1:08-CV-538-SSB (S.D. Ohio)

To Class Counsel:

Thomas J. McKenna  
Gregory E. Egleston  
GAINEY MCKENNA & EGLESTON  
501 Fifth Avenue, 19<sup>th</sup> Floor  
Telephone: (212) 983-1300  
Facsimile: (212) 983-0383

To Defendants' Counsel

Elizabeth Gingold Clark  
Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3424  
Telephone: 404-881-7132  
Facsimile: 404-881-7777

If an objector hires an attorney to represent him, her, or it for the purposes of making an objection pursuant to this paragraph, the attorney must also serve a notice of appearance on counsel listed above and file it with the Court no later than twenty-one (21) days before the Final Approval Hearing. Any member of the Class or other Person who does not timely file and serve a written objection complying with the terms of this paragraph shall be deemed to have waived, and shall be foreclosed from raising, any objection to the Settlement, and any untimely objection shall be barred. There shall be no reply briefs by any objector. Defendants' counsel and Class Counsel

shall promptly furnish each other with copies of any and all Objections to the Settlement that come into their possession.

11. **Supporting Briefs.** Any additional briefs the Parties may wish to file in support of the Settlement shall be filed no later than seven (7) days before the Final Approval Hearing.

12. **Appearance at Final Approval Hearing.** Any objector who files and serves a timely, written objection in accordance with paragraph 10 above may also appear at the Final Approval Hearing either in person or through qualified counsel retained at the objector's expense. Objectors or their attorneys intending to appear at the Final Approval Hearing must serve a notice of intention to appear (and, if applicable, the name, address, and telephone number of the objector's attorney) on Class Counsel and Defendants' counsel (at the addresses set out above) and file it with the Court by no later than twenty-one (21) days before the Final Approval Hearing. Any objector who does not timely file and serve a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Final Approval Hearing, except for good cause shown.

13. **Notice Expenses.** The expenses of printing, mailing, and publishing the class Notice and Summary Notice required herein shall be paid exclusively from the Settlement Fund.

14. **Termination of Settlement.** This Order shall become null and void, *ab initio*, and shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions as of March 6, 2023, the day immediately before the Parties reached agreement to settle the Action, if the Settlement is terminated in accordance with the terms of the Settlement Agreement.

15. **Use of Order.** This Order is not admissible as evidence for any purpose against Defendants in any pending or future litigation. This Order shall not be construed or used as an

admission, concession, or declaration by or against Defendants of any finding of fault, wrongdoing, breach, omission, violation of law, breach of duty, mistake, or liability. This Order shall not be construed or used as an admission, concession, or declaration by or against the Named Plaintiff or the Class that their claims lack merit, or that the relief requested in the Action is inappropriate, improper, or unavailable. This Order shall not be construed or used as an admission, concession, declaration, or waiver by any Party of any arguments, defenses, or claims he, she, or it may have, including, but not limited to, any objections by Defendants to class certification, in the event that the Settlement Agreement is terminated. Moreover, the Settlement Agreement and any proceedings taken pursuant to the Settlement Agreement are for settlement purposes only. Neither the fact of, nor any provision contained in, the Settlement Agreement or its exhibits, nor any actions taken thereunder, shall be construed as, offered into evidence as, received in evidence as, and/or deemed to be evidence of a presumption, concession, or admission of any kind as to the truth of any fact alleged or validity of any claim or defense that has been, could have been, or in the future might be asserted.

16. **Jurisdiction.** The Court hereby retains jurisdiction for purposes of implementing the Settlement, and reserves the power to enter additional orders to effectuate the fair and orderly administration and consummation of the Settlement as may from time to time be appropriate, and to resolve any and all disputes arising thereunder.

17. **Continuance of Final Approval Hearing.** The Court reserves the right to continue the Final Approval Hearing without further written notice or to hold the Final Approval Hearing via telephone or via remote video appearances.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2023

---



HON. ABIGAIL M LEGROW

# **EXHIBIT A-1**

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

DUSTIN EVANS, Individually And On ) Behalf Of All Other Similarly Situated, )		
Plaintiff, )		C.A. No. N20C-01-259 AML
	)	
v. )		
MOHAWK INDUSTRIES, INC., )		
JEFFREY S. LORBERBAUM, )		
FRANK H. BOYKIN, and WILLIAM )		
CHRISTOPHER WELLBORN, )		
Defendants. )		
	)	

---

**NOTICE OF CLASS ACTION DETERMINATION,  
PROPOSED SETTLEMENT AND HEARING THEREON**

If you purchased or otherwise acquired the common stock of Mohawk Industries, Inc. (“Mohawk”) in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 (collectively “the Plan”) between April 27, 2017 and July 25, 2019, inclusive (“Class Period”), you may be a member of the Settlement Class (“Class” or “Class Member”) and eligible to receive payment from a class action settlement (the “Settlement”).<sup>1</sup>

*Under law, a Superior Court of the State of Delaware has authorized this notice.*

- On \_\_\_\_\_, The Honorable Abigail M. LeGrow of the Superior Court of the State of Delaware (the “Court”) preliminarily approved the Settlement and ordered that this Notice be sent to Class Members.
- If approved by the Court, the settlement will provide \$1,000,000, plus any interest earned (the “Settlement Fund”), less expenses, to investors who purchased or otherwise acquired Mohawk Industries, Inc. common stock in the Plan during the Class Period.
- Attorneys for the Plaintiff in the above captioned action (“Plaintiff’s Counsel”) intend to ask the Court for an award of attorneys’ fees of not more than \$\_\_\_\_\_, for all law firms that were involved in the action on behalf of Plaintiff and the Class and reimbursement of case-related expenses of not more than \$\_\_\_\_\_ (“Fee and Expenses”). Plaintiff’s Counsel is seeking reimbursement of Fee and Expenses because the

---

<sup>1</sup> This Notice of Class Action Determination, Proposed Settlement, and Hearing Thereon (“Notice”) incorporates by reference the definitions in the Stipulation of Settlement (the “Stipulation”) dated as of March 7, 2023, and all capitalized terms used, but not defined herein, shall have the same meanings as in the Stipulation. The Stipulation with its supporting exhibits is posted on the Claims Administrator’s website at [www.mohawkesppplanclassactionsettlement.com](http://www.mohawkesppplanclassactionsettlement.com).

attorneys provided, on a contingent bases, legal services and advanced expenses for the prosecution of the above-captioned action, and believe their efforts made it possible for Class Members to achieve the Settlement.

- The law firms that were involved on behalf of the Plaintiff were “Plaintiff’s Counsel”, which means the law firm of Gainey McKenna & Egleston of New York, New York, and Bielli & Klauder, LLC of Wilmington, Delaware.
- The claims asserted against Mohawk and Messrs. Jeffrey S. Lorberbaum, Frank H. Boykin, and William Christopher Wellborn (collectively, “Defendants”) allege claims arising under Section 11 and 12 of the Securities Act of 1933 (the “Securities Act”), and the Settlement resolves those claims.
- If you are a member of the Class and are entitled to receive a share of the distribution of the Net Settlement Fund, you will either receive your share by direct deposit into your existing Plan account, or, if you no longer have an existing Plan account, a check will be sent to you at the last address on file with the Plan. **If you have changed your address, contact the Claims Administrator at the address noted below.**
- This is a non-opt-out class action Settlement. If you are a Class Member, your legal rights will be affected. Therefore, you should read this Notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>TAKE NO ACTION</b>	You will receive a payment if you are entitled to such payment, either by direct deposit into your existing Plan account, or by a check mailed to the last address on file with the Plan, or to a new address that you submit to the Claims Administrator.
<b>OBJECT TO SETTLEMENT NO LATER THAN</b> _____, 2023	Write to the Court about why you do not like the settlement.
<b>GO TO A SETTLEMENT FAIRNESS HEARING ON</b> _____, 2023	Speak in Court about the fairness of the settlement.

**INQUIRIES**

**Please do not contact the Court regarding this notice.** All inquiries concerning this Notice, or any other questions by Class Members should be directed to:

Mohawk Plan Administrator Fidelity Brokerage Services LLC,	<b>or</b>	Plaintiff’s Counsel:
---	-----------	----------------------

<p>900 Salem Street Smithfield, RI 02917 www.fidelity.com</p> <p>Claims Administrator Simpluris, Inc. 3194-C Airport Loop Drive Costa Mesa, CA 92626 www.simpluris.com</p>		<p>Thomas J. McKenna GAINEY McKENNA &amp; EGLESTON 501 Fifth Avenue, 19<sup>th</sup> Floor New York, New York 10017 Tel: (212) 983-1300 Fax: (212) 983-0383</p>
--	--	---

## COMMON QUESTIONS AND ANSWERS CONCERNING THE SETTLEMENT

### 1. Why did I get this Notice?

You or someone in your family may have purchased or otherwise acquired Mohawk Industries, Inc. common stock in the Plan during the Class Period.

### 2. What is this lawsuit about?

The case is known as Evans v. Mohawk Industries, Inc., Case No. C.A. No. N20C-01-259 AML (the “Action”), and the Court in charge of the case is the Superior Court for the State of Delaware.

This is a putative securities class action on behalf of all those who purchased or otherwise acquired Mohawk common stock in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 (collectively “the Plan”) between April 27, 2017 and July 25, 2019 (the “Class Period”) pursuant or traceable to Mohawk’s August 11, 2016 Form S-8 registration statement (the “Registration Statement”). This action asserts claims under Sections 11 and 12(a)(2) of the Securities Act of 1933 (the “Securities Act”) against Mohawk and Messrs. Jeffrey S. Lorberbaum, Frank H. Boykin, and William Christopher Wellborn. No class has been certified in the Action.

Plaintiff claims that Defendants are liable under Sections 11 and 12(a)(2) of the Securities Act by reason of material misrepresentations and omissions in documents incorporated by reference in the Registration Statement. Specifically, Plaintiff alleges documents incorporated into the Registration Statement, including Mohawk’s 2015 Annual Report, Form 10-Qs for Q2 and Q3 2016, Form 8-Ks filed in 2016, and the 2015 Annual Report for the Retirement Plans, failed to disclose (i) Mohawk purportedly engaged in deceptive and unsustainable sales practices to mask declining customer demand for its traditional product offering including ceramic, stone, laminate, carpet, wood, and vinyl flooring (the “Conventional Flooring Products”); (ii) Mohawk’s revenue growth was allegedly not attributable to product differentiation and innovation or growing demand for Conventional Flooring Products, but rather due to unsustainable channel stuffing of Conventional Flooring Products; and (iii) Mohawk’s increasing accounts receivable was not the result of channel mix and its increasing inventories was not the result of product growth and expansion, but instead the result of the Company deliberately stuffing the channels with Conventional Flooring Products to boost sales.

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

In a class action, one or more persons and/or entities, called the Class Representative(s), sues on behalf of all persons and/or entities who have similar claims. All of these persons and/or entities are referred to collectively as a Class, and these individual persons and/or entities are known as Class Members. One court resolves all of the issues for all Class Members. The Class Representative appointed by the Court in the Action is Dustin Evans.

### **4. Why is there a Settlement?**

The Class Representative and Defendants do not agree regarding the merits of the Class Representative's allegations with respect to liability or the amount of damages that would be recoverable if the Class Representative were to prevail on his claims at trial. The issues on which the Class Representative and Defendants disagree include: (a) whether Defendants violated Sections 11 and 12(a)(2) of the Securities Act; (b) whether the Defendants' conduct was the cause of the Class Members' alleged damages; and (c) the amount of damages, if any, suffered by the Class Members.

This matter has not gone to trial and the Court has not decided in favor of either the Class Representative or Defendants. Instead, the Class Representative and Defendants participated in an arms-length mediation presided over by a neutral party, Phillips ADR, and as a result of that mediation, the Parties have agreed to settle the Action. The Class Representative and Plaintiff's Counsel believe the Settlement is best for all Class Members because of the risks associated with continued litigation and the nature of the defenses raised by Defendants. Even if the Class Representatives were to win at trial, Defendants could file an appeal whose outcome would be uncertain and which appeal could affect the collectability of any judgment previously obtained.

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

To be a Class Member, you must have been an employee or ex-employee of Mohawk who purchased or otherwise acquired Mohawk Industries common stock in the Plan during the Class Period, from April 27, 2017 and July 25, 2019, inclusive, and suffered financial damages as a result.

### **6. What does the Settlement provide?**

#### **(a) What is the Settlement Fund?**

The proposed Settlement calls for Mohawk to create a Settlement Fund (the "Settlement Fund") in the amount of \$1,000,000. The Settlement is subject to Court approval. Also, subject to the Court's approval, a portion of the Settlement Fund will be used to pay Plaintiff's Counsel's attorneys' Fee and Expenses, and any case contribution award granted to the Class Representative. A portion of the Settlement Fund also will be used to pay taxes due on any interest earned by the Settlement Fund, if necessary, and any notice and claims administration expenses permitted by the Court. After the foregoing deductions from the Settlement Fund have been made, the amount

remaining (the “Net Settlement Fund”) will be distributed to Class Members who are entitled to share in the Net Settlement Fund.

**(b) What can you expect to receive under the proposed Settlement?**

Your share of the Net Settlement Fund will or may depend on: (i) the date(s) you purchased or otherwise acquired and the date(s) you sold Mohawk Industries, Inc. common stock in the Plan; (ii) the price(s) of your Mohawk stock purchased or sold in the Plan during the Class Period; (iii) the amount of administrative costs in connection with the Settlement, including the costs of notice; and (iv) the amount awarded by the Court for Plaintiff’s Fee and Expenses and any case contribution award granted to the Class Representative.

The Net Settlement Fund will be distributed to Class Members according to the Plan of Allocation. If you are a member of the Class and are entitled to receive a share of the distribution of the Net Settlement Fund, you will either receive your share by direct deposit into your existing Plan account, or, if you no longer have an existing Plan account, a check will be sent to you at the last address on file with the Plan. If you have changed your address, contact the Claims Administrator at the address noted herein.

**PROPOSED PLAN OF ALLOCATION OF THE NET SETTLEMENT FUND**

For each Class Member, the Plan Administrator shall determine the approximate net loss (“Net Loss”) as follows:  $\text{Net Loss} = A + B - C - D$ , where, for each Class Member’s account:

1. A = the dollar value, if any, of the balance invested in common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund on the first day of the Class Period;
2. B = the dollar value, if any, of all acquisitions of common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund after the first day of the Class Period and during the Class Period as of the time of purchase(s);
3. C = the dollar value, if any, of all dispositions of common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund during the Class Period as of the time of the sale(s); and
4. D = the dollar value, if any, of common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund remaining on the last day of the Class Period.

In the event that a Plan participant’s account was transferred, in whole or in part, to a beneficiary (including an alternate payee) during the Class Period, the participant and the transferee beneficiary shall be treated as a single Class Member for the purpose of determining a Net Loss. The Net Loss shall then be allocated between the participant and beneficiary according to the proportion of the Net Loss attributable to the holdings of the participant and beneficiary.

The Net Losses of the Class Members as calculated above will be totaled to yield the loss of the Plan as a whole over the Class Period (the “Plan’s Loss”).

The Plan Administrator shall calculate for each Class Member his or her “Preliminary Fractional Share” of the Plan’s Loss by dividing each Class Member’s Net Loss by the Plan’s Loss.

The Plan Administrator shall then calculate for each Class Member his or her “Preliminary Dollar Recovery” of the Net Settlement Fund by multiplying the Class Member’s Preliminary Fractional Share by the Net Settlement Fund.

The Plan Administrator shall identify all Class Members whose Preliminary Dollar Recovery is less than five dollars (\$5.00) (the “Minimum Amount”). The Settling Parties in their discretion reserve their right to propose a modified Minimum Amount if review of the data of the Plan so indicates.

All Class Members whose Preliminary Dollar Recovery is more than zero dollars (\$0) but less than five dollars (\$5.00) will be deemed to have a final share equal to zero dollars (\$0) and will not receive a Settlement distribution.

The Plan Administrator shall then, after noting all Class Members’ whose Preliminary Dollar Recovery is less than the Minimum Amount, recalculate the Preliminary Fractional Shares and the Preliminary Dollar Recoveries so as to arrive at the “Final Fractional Share” and the “Final Dollar Recovery” for each Class Member entitled to a Preliminary Dollar Recovery above the Minimum Amount. The sum of the Final Dollar Recoveries must equal the Net Settlement Fund.

#### **DISTRIBUTION OF THE ALLOCATED AMOUNTS.**

A. As soon as practicable after the calculations made above, Plaintiff’s Counsel shall direct Defendants to deposit the Net Settlement Fund into the Plan. The funds deposited into the Plan shall be assets of the Plan for all purposes.

B. **Settlement Class Members With Accounts In the Plan.** As promptly as reasonably possible after deposit of the Net Settlement Fund into the Plan, the Plan Administrator shall forward to the Plan Trustee the information needed for allocating into each Class Member’s account under the Plan his or her Final Dollar Recovery as calculated above. The deposited amount shall be invested by the Plan Trustee as cash into the Plan participant’s Plan account.

C. **Settlement Class Members Without Accounts Under the Plan.** Class Members who withdrew their accounts under the Plan after the beginning of the Class Period or whose accounts were transferred to a beneficiary (including an alternate payee) (“Former Plan Participants”) shall be handled in the following manner: For Former Plan Participants whose Final Dollar Recovery as calculated by the Plan Administrator is determined to be greater than the Minimum Amount, the Plan Administrator shall transfer those funds to the Claims Administrator



who will then disburse the Final Dollar Recovery to Former Plan Participants via check pursuant to the terms of the Stipulation of Settlement.

D. If any Class Member with a Final Dollar Recovery cannot be located despite reasonable efforts, such Class Member's Final Dollar Recovery shall be administered in accordance with the procedures of the Plan regarding participants who cannot be located. If any Class Member with a Final Dollar Recovery is deceased, such Class Member's Final Dollar Recovery shall be administered in accordance with the procedures of the Plan regarding deceased participants.

Payment pursuant to the Plan of Allocation approved by the Court shall be conclusive against all Class Members. No person or entity shall have any claim against Defendants, Related Parties, the Class Representative, Plaintiff's Counsel, the Plan Administrator, or the Claims Administrator or other agent designated by Class Counsel, based on the distributions made substantially in accordance with the Stipulation and the Settlement contained therein, the Plan of Allocation, or further orders of the Court. All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Net Settlement Fund in connection with the Settlement, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund, shall be released and discharged from any and all claims arising out of such involvement, and all Class Members, whether or not they are to receive payment from the Net Settlement Fund, will be barred from making any further claim against the Net Settlement Fund beyond the amount allocated to them as provided in any distribution orders entered by the Court.

## **7. How do I get a payment?**

If you are a member of the Class and are entitled to receive a share of the distribution of the Net Settlement Fund, you will either receive your share by direct deposit into your existing Plan account, or, if you no longer have an existing Plan account, a check will be sent to you at the last address on file with the Plan. If you have changed your address, contact the Claims Administrator at the address noted herein.

## **8. Can I exclude myself from the Settlement?**

In some class actions, class members have the opportunity to exclude themselves from a Settlement. This is sometimes referred to as "opting out" of a Settlement. You do not have the right to exclude yourself from the Settlement in this Action. This Action was conditionally certified for settlement purposes under Delaware Rules of Civil Procedure 23 as a "non opt-out" class action. Therefore, it is not possible for any Class Members to exclude themselves from the Settlement. As a Class Member, you will be bound by any judgments or orders that are entered in the Action for all claims that were or could have been asserted in the Action or are otherwise released under the Settlement.

Although you cannot opt out of the Settlement, you can object to the Settlement and ask the Court not to approve the Settlement. For more information on objections, see question 12 on page 8-9.

Further detail and information about the Settlement is detailed in the Stipulation of Settlement, which is available at [www.mohawkesppplanclassactionsettlement.com](http://www.mohawkesppplanclassactionsettlement.com).

**9. Since I cannot exclude myself, can I sue Defendant for the same thing later?**

No, if the Settlement is given final approval, all Class Members give up any right to sue Defendants or Related Parties for the claims that this Settlement resolves. If you have a pending lawsuit involving the same issues as involved in this action, speak to your lawyer in that case immediately.

**10. Do I have a lawyer in this case?**

The Court has appointed Gainey McKenna & Egleston as Plaintiff's Counsel to represent the Class Members for the purposes of this Settlement. You have the option to retain your own separate counsel at your own cost and expense. You need not retain your own separate counsel to object or appear at the Settlement Fairness Hearing.

**11. How will the lawyers be paid?**

Plaintiff's Counsel have expended considerable time litigating this Action on a contingent fee basis, have paid for the expenses of the Action themselves, and have not been paid any attorneys' fees in advance of this Settlement. Plaintiffs' Counsel have done so with the expectation that if they are successful in recovering money for the Class, they will receive attorneys' fees and be reimbursed for their expenses from the Settlement Fund. Plaintiff's Counsel will not receive attorneys' fees or be reimbursed for their expenses except from the Settlement Fund. Therefore, Plaintiff's Counsel will file a motion asking the Court at the Settlement Fairness Hearing to make an award of attorneys' fees in an amount not to exceed one-third (1/3) of the Settlement Fund, and for reimbursement of expenses, including a case contribution award to the Class Representative, in an amount not to exceed \$\_\_\_\_\_ in total. The Court may award less than these amounts. Any amounts awarded by the Court will come out of the Settlement Fund.

**12. How do I tell the Court that I do not like the Settlement?**

You can tell the Court you do not agree with the Settlement, any part of the Settlement, or Plaintiff's Counsel's motion for Fee and Expenses, and that you think the Court should not approve the Settlement, by mailing a letter stating that you object to the Settlement in the matter of *Evans v. Mohawk Industries, Inc.*, Case No. C.A. No. N20C-01-259 AML. Be sure to include: (1) your name, (2) your address, (3) your telephone number, (4) your signature, (5) a statement containing all of the reasons you object to the Settlement, and (6) documents sufficient to prove that you are a Class Member, namely, that you purchased or otherwise acquired Mohawk common stock in the Plan during the Class Period, the number of shares of Mohawk common stock you held, as well as the dates and prices of each purchase, acquisition, and/or sale of Mohawk common stock. You must also include copies of any documents that you wish the Court to consider. Be sure to mail the objection to the three (3) different addressees listed below by no later than \_\_\_\_\_, so the Court will consider your views:

Clerk of the Court Superior Court of the State of Delaware 500 North King Street, Suite 500 Wilmington, Delaware 19801	Thomas J. McKenna GAINNEY MCKENNA & EGLESTON 501 Fifth Avenue, 19 <sup>th</sup> Floor New York, NY 10017 Tel: (212) 983-1300 Fax: (212) 983-0383  <i>Plaintiff's Counsel</i>	Elizabeth Gingold Clark One Atlantic Center 1201 West Peachtree Street Atlanta, GA 30309-3424 Telephone: 404-881-7132 Facsimile: 404-881-7777  <i>Defendants' Counsel</i>
--	--	--

**13. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Settlement Fairness Hearing on \_\_\_\_\_, at \_\_\_\_:\_\_0 a.m., before The Honorable Abigail M. LeGrow, at the Superior Court of the State of Delaware, 500 North King Street, Suite 500, Wilmington, Delaware 19801.

At this Settlement Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and whether to approve the Settlement. If there are objections, the Court will consider them, and the Court will listen to people who have asked to speak at the hearing. The Court may also decide how much to award Plaintiff's Counsel for attorneys' fees, expenses and a case contribution award for the Class Representative.

If you wish to attend the Settlement Fairness Hearing and be heard orally in opposition to the Settlement, the Plan of Allocation, and/or the application for Fee and Expenses, you are required to indicate in your written objection, submitted as described in response to Question No. 12 above, that you intend to appear at the Settlement Fairness Hearing. Your written objection must identify any witnesses you may call to testify or exhibits you intend to introduce into evidence at the Settlement Fairness Hearing.

**14. Do I have to come to the Settlement Fairness Hearing?**

No. Plaintiff's Counsel will answer any questions the Court may have. You are, however, welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection and it is received on time, the Court will consider it.

**15. What happens if I do nothing at all?**

If you do nothing, you will receive a payment from the Net Settlement Fund if you are entitled to one under the Plan of Allocation and the Settlement will bind you. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or Related Parties in connection with Released Claims.

Date: \_\_\_\_\_, 2023.

**BY ORDER OF THE COURT**

---

Hon. Abigail M. LeGrow

# **EXHIBIT A-2**

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

SUMMARY NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

**TO: ALL PERSONS WHO PURCHASED OR OTHERWISE ACQUIRED MOHAWK INDUSTRIES, INC. COMMON STOCK IN THE MOHAWK INDUSTRIES RETIREMENT PLAN 1 AND/OR THE MOHAWK INDUSTRIES RETIREMENT PLAN 2 (COLLECTIVELY “THE PLAN”) BETWEEN APRIL 27, 2017 AND JULY 25, 2019**

YOU ARE HEREBY NOTIFIED, pursuant to an Order of the Superior Court of the State of Delaware, that a hearing will be held on \_\_\_\_\_, 2023 at \_\_\_\_\_.m. before The Honorable Abigail M. LeGrow, 500 North King Street, Suite 500, Wilmington, Delaware 19801 (the “Settlement Fairness Hearing”), for the purpose of determining: (1) whether the proposed Settlement Amount consisting of the sum of \$1,000,000, should be approved by the Court as fair, reasonable, and adequate; (2) whether the proposed Plan of Allocation of the settlement proceeds is fair, reasonable, and adequate; (3) whether the application for an award of attorneys’ fees of not more than \$\_\_\_\_\_, to Plaintiff’s Counsel, and reimbursement of case-related expenses of not more than \$\_\_\_\_\_, should be approved; (4) whether the Plaintiff should be awarded \$\_\_\_\_\_ out of the settlement fund as a case contribution award; and (5) whether the action captioned *Evans v. Mohawk Industries, Inc., et al.*, C.A. No. N20C-01-259 AML (the “Action”) should be dismissed with prejudice. All capitalized terms herein have the same meaning as set forth in the Stipulation of Settlement.

If you purchased or otherwise acquired Mohawk Industries common stock in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 between April 27, 2017 and July 25, 2019 (the “Class Period”), your rights may be affected by the Settlement of this Action. A copy of the detailed Notice of Class Action Determination, Proposed Settlement, and Hearing Thereon (the “Detailed Notice”) and the Stipulation of Settlement with its supporting exhibits may be obtained by accessing the Claims Administrator’s website at: \_\_\_\_\_ . If you are a member of the Class and are entitled to receive a share of the distribution of the Net Settlement Fund, you will either receive your share by direct deposit into your existing Plan account, or, if you no longer have an existing Plan account, a check will be sent to you at the last address on file with the Plan. If you have changed your address, contact the Claims Administrator at the website address noted above.

The proposed Settlement is a non-opt out Settlement. Any objection to the Settlement, Plan of Allocation, Plaintiff’s Counsel’s request for an award of attorneys’ fees and reimbursement of case-related fees and/or expenses, or the Plaintiff’s case contribution award, must be in the manner and form explained in the Detailed Notice and received no later than \_\_\_\_\_, 2023, by each of the following

**Plaintiffs’ Counsel:** Thomas J. McKenna, Gregory E. Egleston, Gainey McKenna & Egleston, 501 Fifth Avenue, 19th Floor, New York, NY 10017, Telephone: (212) 983-1300, Facsimile: (212) 983-0383

**Defendants’ Counsel:** Elizabeth Gingold Clark, One Atlantic Center, 1201 West Peachtree Street, Atlanta, GA 30309-3424, Telephone: (404)881-7132, Facsimile: (404)881-7777

**PLEASE DO NOT CONTACT THE COURT OR THE CLERK’S OFFICE REGARDING THIS NOTICE.**

Evans v. Mohawk Industries, Inc., et al.  
c/o Strategic Claims Services  
600 N Jackson Street – Suite 205  
Media, PA 19063

**Court-Ordered Legal  
Notice**

*This Notice may affect  
your legal rights.*

*The Superior Court  
for the State of  
Delaware Authorized  
this notice. Please  
read it carefully*

# **EXHIBIT B**



**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

DUSTIN EVANS, Individually And On )  
Behalf Of All Other Similarly Situated, )  
Plaintiff, )

v. )

MOHAWK INDUSTRIES, INC., )  
JEFFREY S. LORBERBAUM, )  
FRANK H. BOYKIN, and WILLIAM )  
CHRISTOPHER WELLBORN, )  
Defendants. )

C.A. No. N20C-01-259 AML

\_\_\_\_\_ )

**FINAL APPROVAL ORDER AND JUDGMENT**

The above-captioned action (the “Action”) came for hearing on \_\_\_\_\_ to determine the fairness of the proposed settlement (the “Settlement”) presented to the Court and the subject of this Court’s Order Granting Preliminary Approval of Class Action Settlement, Preliminarily Certifying a Class for Settlement Purposes, Approving Form and Manner of Class Notice, and Setting Date for Hearing on Final Approval of Settlement. Due notice having been given and the Court having been fully advised in the premises,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

Except as otherwise defined herein, all capitalized and/or italicized terms used in this Final Approval Order and Judgment shall have the same meanings as ascribed to them in the Stipulation of Settlement (“Settlement Agreement”) executed by counsel for Plaintiff and Defendants.

1. The Court has jurisdiction over the subject matter of the Action and over all Parties to the Action, including all members of the Class.

2. For the sole purpose of settling and resolving the Action, the Court certifies this Action as a class action pursuant to Rules 23(a)(1)-(4), and (b)(3) of the Delaware Rules of Civil Procedure. The Class is defined as:

All Persons who purchased or otherwise acquired the publicly traded common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 (hereinafter “the Plan”) during the time period between April 27, 2017 and July 25, 2019, inclusive (the “Class Period”). Excluded from the Class are Defendants and their families, directors, and officers of Mohawk and their families and affiliates.

3. The Court hereby appoints Plaintiff Dustin Evans as the Class Representative for the Class and appoints Gainey McKenna & Egleston as Class Counsel for the Class.

4. The Court finds for the sole purpose of settling and resolving the Action that:

(a) The numerosity requirement of Delaware Rules of Civil Procedure 23(a)(1) is satisfied because the Class is so numerous that it is impractical to bring all Class Members before the Court individually.

(b) The commonality requirement of Delaware Rules of Civil Procedure 23(a)(2) is satisfied because the allegations of the Class present common questions of law or fact, including:

(i) Whether the Defendants violated Section 11 and 12 of the Securities Act of 1933 (the “Securities Act”) in connection with causing the Plan to allow Plan participants to purchase Mohawk publicly traded common stock during the Class Period.

(c) The typicality requirement of Delaware Rules of Civil Procedure 23(a)(3) is satisfied because the claims of the Class Representative arose from the same alleged course of conduct that gives rise to the claims of the Class,

and the Class Representative's claims are based on the same legal theory as those of the Class. Plaintiff alleges that they were Plan participants during the Class Period with Plan accounts that included investments in the publicly traded common stock of Mohawk during the Class Period and that the Plan's fiduciaries treated them and all other Plan participants alike. Under these circumstances, for purposes of the Settlement only, and subject to the foregoing, the claims asserted by the Class Representative are sufficiently typical of the claims asserted by the Class as a whole to satisfy Delaware Rules of Civil Procedure 23(a)(3).

- (d) The adequacy requirement of Delaware Rules of Civil Procedure 23(a)(4) is satisfied. For the purposes of this Settlement, the Court finds that the Class Representative has no conflicting interests with absent members of the Class.
- (e) The requirements of Delaware Rules of Civil Procedure 23(b)(3) are also satisfied. The Court finds that questions of law and fact are common to the members of the Class and that such questions predominate over any questions affecting only individual Class Members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. There is also a risk that prosecution of separate actions by individual members of the Class would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests. There is also a risk of inconsistent dispositions that might

prejudice the Defendants. This case is thus appropriate for class certification, for the purposes of this Settlement, under Delaware Rules of Civil Procedure 23(b)(3).

- (f) The Class has received proper and adequate notice of the Settlement Agreement, the Final Approval Hearing, Class Counsel's application for attorneys' fees and litigation costs and for a Case Contribution Award to the Class Representative, and the Plan of Allocation, such notice having been given in accordance with the Preliminary Approval Order. Such notice included both individual notice to all members of the Class who could be identified through reasonable efforts and publication notice, as well as notice through the Claims Administrator's dedicated Settlement website on the internet, and provided valid, due, and sufficient notice of these proceedings and of the matters set forth in this Order, and included sufficient information regarding the procedure for the making of objections. Such notice fully satisfied the requirements of Delaware Rules of Civil Procedure 23 and the requirements of due process.

5. The Court hereby approves the Settlement Agreement and hereby Orders that the Settlement Agreement shall be consummated and implemented in accordance with its terms and conditions.

6. Pursuant to Delaware Rules of Civil Procedure 23(e), the Court finds that the Settlement embodied in the Settlement Agreement is fair, reasonable and adequate, and more particularly finds that:

(a) The Settlement was negotiated vigorously and at arm's-length by counsel for the Defendants, on the one hand, and the Plaintiff and Class Counsel on behalf of the Class, on the other hand;

(b) The Settlement was reached following arm's-length negotiations by counsel under the auspices of the Settling Mediator, who was thoroughly familiar with this litigation. Plaintiff and Defendants had sufficient information to evaluate the settlement value of the Action;

(c) If the Settlement had not been achieved, Plaintiff and the Defendants faced the expense, risk, and uncertainty of extended litigation;

(d) The amount of the Settlement, one million dollars (\$1,000,000), is fair, reasonable, and adequate. The Settlement Amount is within the range of settlement values obtained in similar cases;

(e) At all times, the Plaintiff has acted independently of Defendants and in the interest of the Class; and,

(f) The Court has duly considered and overruled any filed objection(s) to the Settlement to the extent there were any.

7. The Plan of Allocation is finally approved as fair, reasonable, and adequate. Class Counsel shall direct distribution of the Net Settlement Fund in accordance with the Plan of Allocation and the Settlement Agreement.

8. The Court has approved the following releases as set forth in Sections 1.24, 1.25, and 1.32 of the Settlement Agreement:

(a) "Released Claims" are any and all claims, demands, rights, actions or causes of action, liabilities, debts, demands, damages, losses, obligations, judgments, suits,

fees, expenses, costs, matters, and issues of any kind or nature whatsoever (including Unknown Claims as defined below) against Defendants and their Related Parties, that both (a) arise out of, relate to, or connect with in any way, any of the allegations, acts, transactions, facts, events, matters, occurrences, statements, representations, or alleged misrepresentations or omissions involved, set forth, alleged or referred to, in this Action, or which could have been alleged by Class Members, and (b) arise out of, are based upon, or relate to in any way, the purchase, acquisition, holding, sale, or disposition of Mohawk common stock, including but not limited to Mohawk common stock purchased or otherwise acquired pursuant and/or traceable to the Registration Statement. “Released Claims” also includes any and all claims arising out of, relating to, or in connection with the settlement or resolution of the Action against the released Parties (including Unknown Claims), except claims to enforce any of the terms of this Stipulation. For avoidance of doubt, Released Claims does not include claims that have been asserted in the actions captioned *Public Employees’ Retirement System of Mississippi v. Mohawk Industries, Inc. et al.*, No. 4:20-cv-00005-VMC (N.D. Ga.); *Maverick Fund, LTD., et al. v. Mohawk Industries, Inc., et al.*, No. 4:21-cv-00118-VMC (N.D. Ga.); *Fir Tree Value Master Fund, L.P. v. Mohawk Industries, Inc., et al.*, No. 4:22-cv-00098-VMC (N.D. Ga.); *Hound Partners Offshore Fund, LP, et al. v. Mohawk Industries, Inc., et al.*, No. 4:22-cv-00073-VMC (N.D. Ga.); *Value Recapture Partners LLC v. Mohawk Industries, Inc., et al.*, No. 2021CV355195 (Superior Court of Fulton County, Ga.); *Incline Global Master LP, et al. v. Mohawk Industries, Inc., et al.*, No. 2021CV355197 (Superior Court of Fulton County, Ga.); *Corvex Master Fund, L.P., et al. v. Mohawk Industries, Inc., et al.*, No. 2021CV355094 (Superior Court of Fulton County, Ga.); *Soroban Opportunities Master Fund LP v. Mohawk*

*Industries, Inc., et al.*, No. 2021CV355090 (Superior Court of Fulton County, Ga); *Palestra Capital Master Fund, LP v. Mohawk Industries, Inc., et al.*, No. 22EV002767 (Superior Court of Fulton County, Ga); *In re Mohawk Industries, Inc. Derivative Litigation*, No. 4:20-cv-00110-ELR (N.D. Ga.); *Treibits v. Lorberbaum et al.*, No. 21-cv-71127 (Superior Court of Gordon County); *City of Southfield Fire & Police Ret. Sys. v. Lorberbaum et al.*, No. 21-cv-71519; and *Taylor v. Lorberbaum et al.*, No. 2022-0224-LWW (Superior Court of Gordon County).

(b) “Released Defendants’ Claims” shall mean all claims, including “Unknown Claims” as defined below, that any Defendant or its successors, assigns, executors, administrators, representatives, attorneys, and agents in their capacity as such may have against Plaintiff, Class Members, or Plaintiff’s Counsel relating to the institution, prosecution or settlement of the Action (except for claims to enforce any of the terms of this Stipulation). For avoidance of doubt, “Released Defendants’ Claims” do not include claims between or among Defendants or any combination of Defendants, including claims for indemnification or contribution.

(c) “Unknown Claims” means any and all claims and potential claims against Defendants which Plaintiff or any Class Member does not know or suspect to exist in their, his, her, or its favor as of the Effective Date, and any Released Claims against Plaintiff which Defendants do not know or suspect to exist in their favor, which if known by them, him, her, or it might have affected their, his, her, or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Released Defendants’ Claims, the Parties stipulate and agree that by operation of the Final Judgment, upon the Effective Date, Plaintiff and Defendants shall have expressly waived, and each Class Member shall

be deemed to have waived, and by operation of the Final Judgment shall have expressly waived, any and all provisions, rights, and benefits conferred by or under Cal. Civ. Code §1542 (“§1542”) or any other law of the United States or any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to §1542, which provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

Plaintiff and Class Members may hereafter discover facts in addition to or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Plaintiff shall expressly fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Plaintiff and Defendants acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Released Defendants’ Claims was separately bargained for and was an essential element of the Settlement.



(d) Scope of Releases. The releases set forth in this section are not intended to include the release of any rights or duties of the Parties arising out of the Settlement Agreement, including the express warranties and covenants contained therein, except as expressly provided in the Settlement Agreement.

9. The Action is hereby dismissed with prejudice with a direction to the Clerk of the Court to enter final judgment pursuant to Delaware Rules of Civil Procedure 54, finding that there is no just reason for delay of enforcement or appeal of the instant Order.

10. The Court shall retain exclusive jurisdiction to resolve any disputes or challenges that may arise as to the performance of the Settlement Agreement or any challenges as to the performance, validity, interpretation, administration, enforcement, or enforceability of the class Notice, Plan of Allocation, this Final Approval Order and Judgment, or the Settlement Agreement or the termination of the Settlement Agreement.

11. The Court hereby approves the sum of \$\_\_\_\_\_ for the payment of Plaintiffs' Counsel's attorneys' fees and expenses ("Fee and Expense Award") and finds that the Fee and Expense Award is fair and reasonable. No other fees, costs, or expenses may be awarded to Plaintiffs' Counsel in connection with the Settlement. The Fee and Expense Award shall be distributed in accordance with the terms of the Stipulation.

12. The Court hereby approves the case Contribution Award of \$\_\_\_\_\_ for the Plaintiff Class Representative to be paid from the Settlement Fund in recognition of Plaintiffs' participation and effort in the prosecution of the Actions.

13. The Court shall also retain exclusive jurisdiction and rule by separate Order with respect to all applications for awards of attorneys' fees and Case Contribution Award to the Plaintiff, and reimbursements of litigation costs, submitted pursuant to the Settlement Agreement.

14. In the event that the Settlement Agreement is terminated, in accordance with its terms, this Final Approval Order and Judgment shall be rendered null and void, *ab initio*, and shall be vacated *nunc pro tunc*, and this Action shall for all purposes with respect to the Parties revert to its status as of the day immediately before March 7, 2023, the day the agreement was reached. The Parties shall be afforded a reasonable opportunity to negotiate a new case management schedule.

15. This Final Approval Order and Judgment shall not be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability. Defendants have denied and continue to deny all of the claims and allegations made by Plaintiff in the Action and specifically deny any liability, wrongful conduct, violation of law, or breach of duty of any kind.

16. This Final Approval Order and Judgment shall not be construed or used as an admission, concession, or declaration by or against Plaintiff or the Class that their claims lack merit or that the relief requested in the Action is inappropriate, improper, or unavailable.

17. This Final Approval Order and Judgment shall not be construed or used as an admission, concession, declaration, or waiver by any Party of any arguments, defenses, or claims he, she, or it may have in the event that the Settlement Agreement is terminated. Moreover, the Settlement Agreement and any proceedings taken pursuant to the Settlement Agreement are for settlement purposes only. Neither the fact of, nor any provision contained in the Settlement Agreement or its exhibits, nor any actions taken thereunder shall be construed as, offered into evidence as, received in evidence as, and/or deemed to be evidence of a presumption, concession, or admission of any kind as to the truth of any fact alleged or validity of any defense that has been, could have been, or in the future might be asserted.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2023

---

HON. ABIGAIL M. LEGROW

# **EXHIBIT C**

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

DUSTIN EVANS, Individually And On )  
Behalf Of All Other Similarly Situated, )

Plaintiff, )

v. )

MOHAWK INDUSTRIES, INC., )

JEFFREY S. LORBERBAUM, )

FRANK H. BOYKIN, and WILLIAM )

CHRISTOPHER WELLBORN, )

Defendants. )

C.A. No. N20C-01-259 AML

---

**PLAN OF ALLOCATION**

**I. DEFINITIONS.**

Except as indicated in this Plan of Allocation, the capitalized terms used herein shall have the meaning ascribed to them in the Stipulation of Settlement (“Stipulation”).

**II. CALCULATION OF ALLOCATION AMOUNTS.**

A. Per paragraph 4.1 of the the Stipulation, prior to disbursement of the Net Settlement Fund, Defendants shall provide the Plan Administrator with the data reasonably necessary to determine the amount of the Net Settlement Fund to be distributed to each Class Member in accordance with this Plan of Allocation.

B. For each Class Member, the Plan Administrator shall determine the approximate net loss (“Net Loss”) as follows:  $Net\ Loss = A + B - C - D$ , where, for each Class Member’s account:

1. A = the dollar value, if any, of the balance invested in common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund on the first day of the Class Period;

2. B = the dollar value, if any, of all acquisitions of common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund after the first day of the Class Period and during the Class Period as of the time of purchase(s);
3. C = the dollar value, if any, of all dispositions of common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund during the Class Period as of the time of the sale(s); and
4. D = the dollar value, if any, of common stock of Mohawk in the Mohawk Industries Retirement Plan 1 and/or the Mohawk Industries Retirement Plan 2 Fund remaining on the last day of the Class Period.

In the event that a participant's account was transferred, in whole or in part, to a beneficiary (including an alternate payee) during the Class Period, the participant and the transferee beneficiary shall be treated as a single Class Member for the purpose of determining a Net Loss. The Net Loss shall then be allocated between the participant and beneficiary according to the proportion of the Net Loss attributable to the holdings of the participant and beneficiary.

C. The Net Losses of the Class Members as calculated in Section II (B) above will be totaled to yield the loss of the Plans as a whole over the Class Period (the "Plans' Loss").

D. The Plan Administrator shall calculate for each Class Member his or her "Preliminary Fractional Share" of the Plans' Loss by dividing each Class Member's Net Loss by the Plans' Loss.

E. The Plan Administrator shall then calculate for each Class Member his or her "Preliminary Dollar Recovery" of the Net Settlement Fund by multiplying the Class Member's Preliminary Fractional Share by the Net Settlement Fund.

F. The Administrator shall identify all Class Members whose Preliminary Dollar Recovery is less than five dollars (\$5.00) (the "Minimum Amount"). The Settling Parties in their

discretion reserve their right to propose a modified Minimum Amount if review of the data of the Plans so indicates.

G. All Class Members whose Preliminary Dollar Recovery is more than zero dollars (\$0) but less than five dollars (\$5.00) will be deemed to have a final share equal to zero dollars (\$0) and will not receive a Settlement distribution.

H. The Plan Administrator shall then, after noting all Class Members' whose Preliminary Dollar Recovery is less than the Minimum Amount, recalculate the Preliminary Fractional Shares and the Preliminary Dollar Recoveries so as to arrive at the "Final Fractional Share" and the "Final Dollar Recovery" for each Class Member entitled to a Preliminary Dollar Recovery above the Minimum Amount. The sum of the Final Dollar Recoveries must equal the Net Settlement Fund.

### **III. DISTRIBUTION OF THE ALLOCATED AMOUNTS.**

A. As soon as practicable after the calculations pursuant to Section II above, Class Counsel shall direct Defendants to deposit the Net Settlement Fund into the Plans. The funds deposited into the Plans shall be assets of the Plans for all purposes.

B. **Settlement Class Members With Accounts In the Plans.** As promptly as reasonably possible after deposit of the Net Settlement Fund into the Plans, the Plan Administrator shall forward to the Plan Trustee the information needed for allocating into each Class Member's account under the Plans his or her Final Dollar Recovery as calculated above. The deposited amount shall be invested by the Plan Trustee as cash into the plan participant's plan account.

C. **Settlement Class Members Without Accounts Under the Plans.** Class Members who withdrew their accounts under the Plans after the beginning of the Class Period or whose accounts were transferred to a beneficiary (including an alternate payee) ("Former Plan

Participants”) shall be handled in the following manner: For Former Plan Participants whose Final Dollar Recovery as calculated by the Plan Administrator is determined to be greater than the Minimum Amount, the Plan Administrator shall transfer those funds to the Claims Administrator who will then disburse the Final Dollar Recovery to Former Plan Participants pursuant to the terms of the Stipulation of Settlement.

D. If any Class Member with a Final Dollar Recovery cannot be located despite reasonable efforts, such Class Member’s Final Dollar Recovery shall be administered in accordance with the procedures of the Plans regarding participants who cannot be located. If any Class Member with a Final Dollar Recovery is deceased, such Class Member’s Final Dollar Recovery shall be administered in accordance with the procedures of the Plans regarding deceased participants.

#### **IV. QUALIFICATIONS AND CONTINUING JURISDICTION**

A. Depending on the manner in which the data is kept and the ease with which it can be analyzed, it may be appropriate to simplify some of the features of these calculations. Such simplifications are acceptable as long as the two basic features of the distribution of the Net Settlement Fund are preserved: (1) that each Class Member receives a proportionate share of the Net Settlement Fund based approximately on the decline in the value of the Mohawk common stock held in the Class Member’s account with the Plans over the Class Period in comparison with the decline in value of the the Mohawk common stock held by all other Class Members in the Plans over the Class Period; and (2) that the individual’s share of the Net Settlement Fund is added to the Class Member or beneficiary’s account under the Plans and/or distributed as to Former Plan Participants as a Plan distribution.



B. The Court will retain jurisdiction over the Plan of Allocation to the extent necessary to ensure that it is fully and fairly implemented.