

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

DUSTIN EVANS, Individually And On )  
Behalf Of All Other Similarly Situated, ) C.A. No. N20-C-01-259-KMM  
Plaintiff, )  
)  
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 November 11, 2023, The Honorable Kathleen M. Miller 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 \$1,000,000.00, 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 one-third of the Settlement Fund, 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 \$8,000.00 (“Fee and Expenses”), together with a case contribution award for the Plaintiff of not more than \$10,000.00. Plaintiff’s Counsel is seeking reimbursement of Fee and Expenses because the 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. After Plaintiff’s Counsel requests are filed with the Court, they will be posted to the settlement website at [www.MohawkESPPPlanClassActionSettlement.com](http://www.MohawkESPPPlanClassActionSettlement.com).

<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 [www.MohawkESPPPlanClassActionSettlement.com](http://www.MohawkESPPPlanClassActionSettlement.com).

- 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.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<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 OR ATTORNEYS’ FEES OR CASE CONTRIBUTION AWARD NO LATER THAN MARCH 1, 2024</b>	Write to the Court about why you do not like the settlement.
<b>GO TO A SETTLEMENT FAIRNESS HEARING ON MARCH 21, 2024 AT 12:00 NOON EASTERN</b>	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, 900 Salem St Smithfield, RI 02917 www.Fidelity.com  Claims Administrator P.O. Box 25226 Santa Ana, CA 92799	<b>or</b>	Plaintiff’s Counsel: Thomas J. McKenna GAINNEY MCKENNA & EGLESTON 501 Fifth Ave, 19 <sup>th</sup> Fl New York, NY 10017 Tel: (212) 983-1300 Fax: (212) 983-0383
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# COMMON QUESTIONS AND ANSWERS CONCERNING THE SETTLEMENT

## 1. WHY DID I GET A 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 KMM (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 \$1,000,000.00. 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: 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 (\$0.00) but less than five dollars (\$5.00) will be deemed to have a final share equal to zero dollars (\$0.00) 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, with the exception of knowing or willful misconduct related to the same, 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 Del. Super. Ct. Civ. R. 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 7.

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 assert that they 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. Plaintiff’s 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 \$18,000 in total. The Court may award less than these amounts. Any amounts awarded by the Court will come out of the Settlement Fund. After Plaintiff’s Counsel’s motion is filed with the Court, it will be posted to the settlement website at [www.MohawkesPPPlanClassActionSettlement.com](http://www.MohawkesPPPlanClassActionSettlement.com).

**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-KMM. 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 file with the Court and mail the objection to the three (3) different addressees listed below by no later than **March 1, 2024**, so the Court will consider your views:

<p>Clerk of the Court Superior Court of the State of Delaware 500 North King St, Suite 500 Wilmington, DE 19801</p>	<p>Thomas J. McKenna GAINNEY MCKENNA &amp; EGLESTON 501 Fifth Ave, 19th Fl New York, NY 10017 Tel: (212) 983-1300 Fax: (212) 983-0383  <i>Plaintiff’s Counsel</i></p>	<p>Elizabeth Gingold Clark One Atlantic Center 1201 West Peachtree St Atlanta, GA 30309-3424 Tel: (404) 881-7132 Fax: (404) 881-7777  <i>Defendants’ Counsel</i></p>
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**13. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

The Court will hold a Settlement Fairness Hearing in person on March 21, 2024, at 12:00 noon, before The Honorable Kathleen M. Miller, at the Superior Court of the State of Delaware, 500 North King Street, Wilmington, Delaware 19801. If the date or method of holding the Settlement Fairness Hearing is changed, the new information will be posted to the settlement website at [www.MohawkesPPPlanClassActionSettlement.com](http://www.MohawkesPPPlanClassActionSettlement.com).

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 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 file and 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, and the Settlement is granted final approval by the Court, 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: December 14, 2023

**BY ORDER OF THE COURT**

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Hon. Kathleen M. Miller