



**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-KMM

**FINAL APPROVAL ORDER AND JUDGMENT**

The above-captioned action (the “Action”) came for hearing on May 29, 2024 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 Del. Super. Ct. Civ. Rules 23(a)(1)-(4), and (b)(1). 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 Del. Super. Ct. Civ. R. 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 Del. Super. Ct. Civ. R. 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 Del. Super. Ct. Civ. R. 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 he was a Plan participant 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 Del. Super. Ct. Civ. R. 23(a)(3).

- (d) The adequacy requirement of Del. Super. Ct. Civ. R. 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 Del. Super. Ct. Civ. R. 23(b)(1) are also satisfied. The Court finds that the prosecution of separate actions by or against individual members of the class would create a risk of: (A) Inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or (B) Adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

(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 Del. Super. Ct. Civ. R. 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 Del. Super. Ct. Civ. R. 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) (the "Settlement Amount"), 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) No objection to the Settlement were filed.

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 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 Del. Super. Ct. Civ. R. 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 \$5,123.19 for the payment of Plaintiff's Counsel's expenses and 15% of Settlement Amount after deduction of the expenses award and the Contribution Award, for an attorneys' fee award of \$149,081 ("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 Plaintiff's 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 \$1,000.00 for the Plaintiff Class Representative to be paid from the Settlement Amount in recognition of Plaintiff's participation and effort in the prosecution of the Actions.

13. 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.

14. 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.

15. 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.

16. 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 7th day of June, 2024

/s/Kathleen M. Miller  
Kathleen M. Miller, Judge

COMMENTS:

The Court made non-substantive edits to paragraphs 4(c), 6(d) and (f), and 12 of the proposed final order. Paragraph 11 was modified to calculate the fee award as directed at the hearing. Original paragraph 13 was deleted because the Court addressed the fee and contribution award in this Order.