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14 SUPERIOR COURT OF CALIFORNIA

15 CITY AND COUNTY OF PLACER

16 TIM MCADAMS, on behalf of himself, all
others similarly situated, and as private
17 attorney general,

18 Plaintiff,

19 v.

20 MONIER LIFETILE LLC, a California
limited liability company, MONIER-
21 RAYMOND COMPANY, MONIER ROOF
TILE, INC., a California corporation,
22 MONIER COMPANY, MONIER, INC., a
California corporation, and DOES 1 through
23 50,

24 Defendants.

Case No. SCV 16410

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT**

Date: November 13, 2020

Time: 8:30 a.m.

Dept.: 3

Judge: Hon. Michael W. Jones

Complaint Filed: November 14, 2003

1 WHEREAS, the above entitled action is pending before this Court (the "Action");

2 WHEREAS, the parties having made application for an order approving the settlement of
3 this Action, in accordance with the Agreement of Compromise and Settlement dated November
4 9, 2020 (the "Agreement"), which sets forth the terms and conditions for a proposed settlement
5 of the Action and for dismissal of the Action with prejudice upon the terms and conditions set
6 forth therein; and the Court having read and considered the Agreement, and the supporting
7 declaration;

8 WHEREAS, all capitalized terms herein have the same meanings as set forth in the
9 Agreement.

10 NOW, THEREFORE, IT IS HEREBY ORDERED:

11 1. **Settlement.** Plaintiff Tim McAdams ("Class Representative") on behalf of
12 himself and the members of the Classes, and Defendants Monier, Inc., Monier Lifetile LLC,
13 Monier-Raymond Company, Monier Roof Tile, Inc., and Monier Company ("Monier") have
14 negotiated a potential settlement to the Action to avoid the expense, uncertainties, and burden of
15 protracted litigation, and to resolve the Released Claims (as defined in the Agreement) against
16 Monier and the Released Parties.

17 2. **Review.** At the preliminary approval stage, the Court's task is to evaluate whether
18 the settlement is within the "range of reasonableness." 4 Newberg on Class Actions § 11.26 (4th
19 ed. 2010). In determining whether class action settlements should be approved, "[c]ourts judge
20 the fairness of a proposed compromise by weighing the plaintiff's likelihood of success on the
21 merits against the amount and form of the relief offered in the settlement. [Citation.] . . . They do
22 not decide the merits of the case or resolve unsettled legal questions." *Carson v. American*
23 *Brands, Inc.*, 450 U.S. 79, 88 n.14 (1981). The Court has carefully reviewed the Agreement, as
24 well as the files, records, and proceedings to date in the Action.

25 3. **Jurisdiction.** This Court has jurisdiction over the subject matter of the Action
26 and over all parties to the Action, including all Members of the Class, and venue in this Court is
27 proper.
28

1 4. **Preliminary Approval.** Based on review of the parties' filings and the Court's
2 familiarity with this case, the Court finds and concludes that the Agreement is the result of
3 informed, good faith, arm's-length negotiations between the parties conducted after Class
4 Counsel had adequately investigated Plaintiff's claims and become familiar with their strengths
5 and weaknesses. The assistance of an experienced mediator in the settlement process confirms
6 that the Settlement is non-collusive.

7 The Court concludes that the Settlement meets the criteria for preliminary settlement
8 approval. The Settlement has no obvious defects and falls within the range of possible approval
9 as fair, adequate, and reasonable, such that notice to the Class is appropriate.

10 The Court hereby preliminarily approves the Agreement and the Settlement set forth
11 therein as fair, reasonable, and adequate, subject to further consideration at the Final Approval
12 Hearing described below.

13 5. **Fees, Expenses, and Awards.** An application for Attorneys' Fees and Expenses
14 shall be submitted by Class Counsel, and such matters will be considered at the Final Approval
15 Hearing. At or after that hearing, the Court shall determine whether Class Counsel's application
16 for Attorneys' Fees and Expenses, and any service award to the Class Representative for his
17 representation of the Class, should be approved.

18 6. **Class.** The Court modifies the definition of the Class previously certified as
19 follows:

20 **"CLRA Class"** comprising (i) "all individuals in the State of California who
21 own homes (for personal, family or household use) with slurry-coated roof tiles
22 sold by Monier Company, Monier Roof Tile, Inc. or Monier Inc. between
23 January 1, 1978[,] and August 14, 1997 (the 'Tiles')"; and (ii) "all Californian
individuals who paid to replace or repair such Tiles [excepting trial judge and
family, and defendants]"; and

24 **"UCL Class"** comprising (i) "all other individuals or entities in the State of
25 California who own structures with slurry-coated roof tiles sold by Monier
26 Company, Monier Roof Tile, Inc. or Monier Inc. between January 1, 1978[,]
27 and August 14, 1997 (the 'Tiles')"; and (ii) "all Californian individuals and
28 entities who paid to replace or repair such Tiles [excepting trial judge and
family, and defendants]."

1 7. **Designation of Class Representatives and Class Counsel.** The Court confirms
2 its prior appointment of Plaintiff Tim McAdams as Class Representative, Jeffrey Cereghino and
3 Michael Ram as and co-lead counsel (“Co-Lead Counsel”), and Jess Bedore, Richard Dorman,
4 and Kim Stephens as additional Class Counsel.

5 8. **Class Notice.** The Court finds that the proposed Notice to the Class Members is
6 the best notice practicable under the circumstances and is reasonably calculated, under all the
7 circumstances, to apprise potential Class Members of the pendency of the Action, to apprise
8 persons who would otherwise fall within the definition of the Class of their right to object the
9 proposed Settlement and their right to appear at the Final Approval Hearing. The Court further
10 finds that the Notice constitutes due and sufficient notice to all persons entitled thereto.

11 9. **Class Members’ Right to Object.** A Class Member who chooses to object to the
12 Settlement must file a written notice of intent to object with the Court and serve copies of any
13 such objection on Class Counsel and counsel for Monier at least fourteen calendar days before
14 the Final Approval and Fairness Hearing. Any Class Member may appear at the Final Approval
15 and Fairness Hearing, in person (or live, if no in-person hearing is held) or through counsel, and
16 be heard to the extent permitted under applicable law and allowed by the Court. The right to
17 object to the Settlement Agreement must be exercised individually by an individual Class
18 Member and, except in the case of a deceased, minor, or incapacitated Person or where
19 represented by counsel, not by the act of another Person acting or purporting to act in a
20 representative capacity.

21 To be effective, an objection to the Settlement Agreement that is filed with the Court
22 must: (1) Contain a caption that includes the case name and the case number as follows:
23 McAdams v. Monier, Inc., et al., S-CV-16410 (Superior Court of Place County); (2) Provide the
24 name, mailing address, e-mail address, telephone number, and signature of the Class Member
25 filing the intent to object, and identify his or her individual counsel, if any; (3) Provide a valid
26 proof of membership in the Class. A Claimant may provide their Claim Tracking Number as
27 support for their proof of membership in the Class, but assumes all risks associated with any
28 deficiencies in their claim file to establish Class membership; (4) File a written letter or brief

1 detailing the specific basis for each objection, including any legal and factual support the
2 objector wishes to bring to the Court's attention and any evidence the objector wishes to
3 introduce in support of the objection; (5) Be served contemporaneously on Class Counsel and
4 counsel for Monier (unless filed electronically, such that copies will be transmitted electronically
5 to these counsel); (6) Contain the number of class action settlements objected to by the Class
6 Member in the last three (3) years; (7) List prior representations of objectors in class action cases
7 by the objector's counsel and all sanctions or discipline ordered by any court, bar association or
8 governmental agency against that counsel; and (8) State whether the objecting Class Member
9 intends to appear at the Final Approval and Fairness Hearing, either in person (or live, if no in-
10 person hearing is held) or through counsel.

11 Any Class Member who does not file a timely and adequate notice of intent to object in
12 accordance with the Settlement Agreement waives the right to object or to be heard at the Final
13 Approval and Fairness Hearing, unless the Court permits otherwise, and shall be forever barred
14 from making any objection to the Settlement. To the extent any Class Member objects to the
15 Settlement Agreement, and such objection is overruled in whole or in part, such Class Member
16 will be forever bound by the Settlement Agreement, and the Final Approval Order and Judgment
17 of the Court.

18 Any Class Member who objects to the Settlement or appeals from the Final Approval
19 Order and Judgment or from the Fee, Cost and Expense Order shall have his or her claim and
20 action against Monier severed so that he or she can only appeal with respect to his or her own
21 claim without affecting the rest of the Class.

22 10. **Settlement Administrator.** The Court appoints Epiq ("Settlement Administrator")
23 to supervise and administer the notice procedure as more fully set forth below. An exemplar
24 timeline is proposed below assuming the Court grants preliminary approval on November 13,
25 2020:

	EVENT	DATE
1.	Individual class notice mailed. (within thirty days of preliminary approval order)	November 27, 2020
2.	Class Counsel to file petition for award of attorneys' fees and reimbursement of expenses. (21 days before final approval hearing)	By December 23, 2020
3.	Class Member Objections (14 days before final approval hearing)	By December 31, 2020
4.	Class Member Notices of Intention to Appear (14 days before final approval hearing)	By December 31, 2020
5.	File declaration that approved notice plan was carried out (14 days before final approval hearing)	By December 31, 2020
6.	Plaintiff or Defendant's response to any objections filed (7 days before final approval hearing)	By January 7, 2020
7.	Final Approval Motion Filed (21 days before final approval)	By December 23, 2020
8.	Fairness Hearing	By January 15, 2020

11. **Final Approval and Fairness Hearing:** The Court will hold a Final Approval and Fairness Hearing on January 15, 2020, or on a later date to be determined by the Court, for the purpose of determining whether to issue a Final Approval Order and Judgment, which shall:

- a. Grant final approval to the Settlement and Settlement Agreement as fair, reasonable, adequate, in good faith and in the best interests of the Class, and order the Parties to carry out the provisions of the Settlement Agreement;
- b. Dismiss with prejudice and without costs the Complaint and litigation against Monier and the Released Parties;
- c. Adjudge that Releasing Parties are conclusively deemed to have released Monier and the Released Parties of the Released Claims;
- d. Bar and permanently enjoin each Class Member from prosecuting against the Released Persons any and all of the Released Claims;

- 1 e. Sever and include entry of individual judgments on any claims against Monier by
2 any Class Members who object to the Settlement, if any; and
3 f. Reserve continuing and exclusive jurisdiction by the Court to preside over any
4 ongoing proceedings relating to the Claims or the Settlement Agreement.

5 12. **Continuance of Final Approval Hearing.** The Court reserves the right to
6 continue the date of the Final Approval Hearing without further notice to the Members of the
7 Class and retains jurisdiction to consider all further applications arising out of or connected with
8 the proposed Settlement. The Court may approve the Settlement, with such modifications as
9 may be agreed to by the Parties, if appropriate, without further notice to the Class.

10 13. **Stay of Proceedings.** All proceedings in this Action are stayed until further
11 Order of this Court, except as may be necessary to implement the Settlement or comply with the
12 terms of the Agreement.

13 14. **Preliminary Injunction.** Pending final determination of whether the Settlement
14 should be approved, all Class Members are preliminarily enjoined from directly or indirectly
15 maintaining, commencing, prosecuting, or pursuing directly, representatively, or in any other
16 capacity, any Released Claim subsumed and covered by the Release in the Agreement, including
17 in any court or arbitration forum.

18 15. **Authority.** The Court hereby authorizes the Parties to take such further steps as
19 necessary and appropriate to establish the means necessary to implement the terms of the
20 Agreement.

21 16. **Jurisdiction.** This Court retains exclusive jurisdiction over the Action to
22 consider all further matters arising out of or connected with the Agreement and the Settlement.

23 **IT IS SO ORDERED.**

24 DATED:

25 _____
26 Honorable Michael W. Jones
27 Judge of the Superior Court
28