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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

RUDOLPH MARQUEZ III, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

EMSER TILE, LLC, a California limited liability
company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2130963

CLASS ACTION

*[Assigned for all purposes to: Hon. Christian
Townes, Dept. S26]*

**NOTICE OF RULING RE: ORDER
GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Complaint filed: October 27, 2021

Trial date: Not set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that the Court issued an order on August 12, 2025. Plaintiff
3 was ordered to give notice. A true and correct copy of the Court's order is attached hereto at
4 Exhibit 1.

5 Respectfully submitted,

6 Dated: August 13, 2025

WILSHIRE LAW FIRM, PLC

7
8 By: 
9 Alan Wilcox
10 *Attorneys for Plaintiff*

Exhibit 1

Benjamin H. Haber (SBN 315664)
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Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 12 2025

BY 
VALERIE URUENA, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

RUDOLPH MARQUEZ III, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

EMSER TILE, LLC, a California limited liability
company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2130963

CLASS ACTION

[Assigned for all purposes to: Hon. Christian
Towns, Dept. S26]

**PROPOSED ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Filed with Notice of Motion and Motion,
Memorandum of Points and Authorities, the
Declaration of Benjamin H. Haber, and the
Declaration of Rudolph Marquez III]

PRELIMINARY APPROVAL HEARING

Date: August 12, 2025

Time: 8:30 a.m.

Dept: S26

Complaint filed: October 27, 2021

Trial date: Not set

1 The Court has before it Plaintiff Rudolph Marquez III ("Plaintiff") Motion for
2 Preliminary Approval of Class Action Settlement. Having reviewed the Motion for Preliminary
3 Approval of Class Action Settlement, the Declaration of Benjamin H. Haber, the Class Action
4 and PAGA Settlement Agreement and Class Notice (which is referred to here as the "Settlement
5 Agreement"), and good cause appearing, the Court hereby finds and orders as follows:

6 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
7 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
8 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
9 the terms set forth in the Settlement Agreement between Plaintiff Rudolph Marquez III and
10 Defendant Emser Tile, LLC ("Defendant"), attached to the Declaration of Benjamin H. Haber
11 in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement as Exhibit
12 1.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court, and appears to be presumptively valid,
15 subject only to any objections that may be raised at the Final Approval Hearing and final
16 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
17 \$1,250,000.00 to cover (a) settlement payments to class members who do not validly opt out;
18 (b) a \$60,000.00 payment to the State of California, Labor & Workforce Development Agency
19 for its share of the settlement of claims for penalties under the Private Attorneys General Act,
20 with 75% of which (\$45,000.00) will be paid to the LWDA and 25% (\$15,000.00) will be paid
21 to eligible Aggrieved Employees; (c) Class Representative service payment of up to \$12,500.00
22 for Plaintiff Rudolph Marquez III; (d) Class Counsel's attorneys' fees, not to exceed 33 1/3%
23 of the Gross Settlement Amount (\$416,666.67), and up to \$40,000.00 in costs for actual
24 litigation expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to
25 \$15,000.00.

26 3. The Court preliminarily finds that the terms of the Settlement appear to be within
27 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
28 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair

1 and reasonable to the class members when balanced against the probable outcome of further
2 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
3 significant informal discovery, investigation, research, and litigation have been conducted such
4 that counsel for the parties at this time are able to reasonably evaluate their respective positions;
5 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
6 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
7 the result of intensive, serious, and non-collusive negotiations between the Parties with the
8 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
9 that the Settlement Agreement was entered into in good faith.

10 4. A final fairness hearing on the question of whether the proposed settlement,
11 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
12 Workforce Development Agency for its share of the settlement of claims for penalties under the
13 Private Attorneys General Act, and the class representative's enhancement award should be
14 finally approved as fair, reasonable and adequate as to the members of the class is hereby set in
15 accordance with the Implementation Schedule set forth below.

16 5. The Court provisionally certifies for settlement purposes only the following class
17 (the "Settlement Class"): "all persons employed by Defendant in California and classified as a
18 non-exempt or hourly-paid employee who worked for Defendant during the Class Period."

19 6. "Class Period" means the period from October 27, 2017 to October 1, 2024.

20 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
21 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
22 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
23 of law and fact that are common, or of general interest, to all Settlement Class Members, which
24 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
25 Settlement Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect
26 the interests of the Settlement Class Members; and (5) a class action is superior to other
27 available methods for the fair and efficient adjudication of the controversy.

28 8. The Court appoints as Class Representative, for settlement purposes only,

1 Plaintiff Rudolph Marquez III. The Court further preliminarily approves Plaintiff's ability to
2 request an incentive award up to \$12,500.00.

3 9. The Court appoints, for settlement purposes only, Benjamin H. Haber and Daniel
4 J. Kramer of Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily
5 approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total
6 Settlement Amount (\$416,666.67), and costs not to exceed \$40,000.00.

7 10. The Court appoints ILYM Group, Inc. as the Settlement Administrator with
8 reasonable administration costs estimated not to exceed \$15,000.00.

9 11. The Court approves, as to form and content the Class Notice, attached to the
10 Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the
11 Notice to Settlement Class Members satisfies due process, provides the best notice practicable
12 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
13 thereto.

14 12. The parties are ordered to carry out the Settlement according to the terms of the
15 Settlement Agreement.

16 13. Any class member who does not timely and validly request exclusion from the
17 settlement may object to the Settlement Agreement.

18 14. The Court orders the following Implementation Schedule:

19

20 Defendants to provide Class List to the	15 days after notice of entry of the Court's
21 Settlement Administrator	order granting Motion for Preliminary
22	Approval
23 Settlement Administrator to mail the Notice	14 days after receipt of the Class List from
24 Packets	the Defendant
25 Response Deadline	45 days after Notice is mailed out by the
26	Settlement Administrator
27 Deadline to Provide Written Objections, if	45 days after Notice is mailed out by the
28	

any	Settlement Administrator
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff	16 court days before hearing on Motion for Final Approval, which is _____;
Final Approval Hearing	<u>1/6</u> at <u>8:30</u> a.m./p.m., or first available date thereafter, in Department S-26. The hearing may be continued to another date without further notice to the Class Members.

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE: **AUG 12 2025**

C. Towns
Hon. Christian Towns
San Bernardino County Superior Court

1 **PROOF OF SERVICE**

2 *Rudolph Marquez III v. Emser Tile, LLC, a California Limited*
3 *Liability Company*
4 CIVSB2130963

5 STATE OF CALIFORNIA)
6) ss
7 COUNTY OF SAN BERNARDINO)

8 I, Coley Hayes, state that I am employed in the aforesaid County, State of California; I
9 am over the age of eighteen years and not a party to the within action; my business address is
10 660 S. Figueroa St., Sky Lobby, Los Angeles, CA 90017. My electronic service address is
11 christina.hicklin@wilshirelawfirm.com. On August 13, 2025, I served **NOTICE OF RULING**
12 **RE: ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL**
13 **OF CLASS ACTION SETTLEMENT**, on the interested parties as follows:

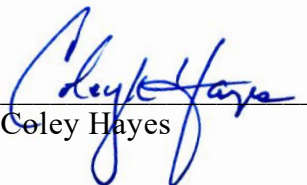
14 Colin P. Calvert
15 ccalvert@fisherphillips.com
16 Nelly Pineda
17 npineda@fisherphillips.com
18 **FISHER & PHILLIPS LLP**
19 2050 Main Street, Suite 1000
20 Irvine, CA 92614
21 Telephone: (949) 798-2125
22 Facsimile: (949) 851-0152

23 *Attorneys for Defendant*

- 24 (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
25 California, by e-mail delivery on the parties listed herein at their most recent known
26 email address or e-mail of record in this action.
27
28 (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the
State of California Labor & Workforce Development Agency Online Filing Site.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on August 13, 2025, at Los Angeles, California.

23 
24 Coley Hayes