

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 LUCIEANN TALAMANTES, ROBERT
5 CAHIGAL, HECTOR GARCIA, DEWEY
6 TAKAGI, BRIAN HOLLIDAY, AND
7 TINA DIEMER on behalf of themselves
8 and all others similarly situated,

Case No. 3:13-cv-04062-WHO

9 Plaintiffs,

10 v.

11 PPG Industries, Inc.,

12 Defendant.

13 **SETTLEMENT AGREEMENT**

14 The Parties to this Civil Action, acting through their representatives and attorneys and with
15 the assistance of mediator Mark Rudy, reached an agreement concerning the essential terms of a
16 settlement of this Civil Action, subject to preparation and execution of a comprehensive written
17 settlement and release agreement, and further subject to approval by the Court. The Parties now
18 enter into this Agreement.

19 **1. DEFINITIONS**

20 The terms set forth below shall have the meanings defined herein wherever used in this
21 Agreement (including its exhibits).

22 **1.1** "Agreement" means this written Settlement Agreement, which sets forth the terms of
23 the settlement and final amicable resolution of this Civil Action.

24 **1.2** "Civil Action" means the above-captioned action, inclusive of the claims asserted
25 therein pursuant to the federal Fair Labor Standards Act and California Labor Code.

26 **1.3** "Court" means the United States District Court for the Northern District of California
27 (Hon. William H. Orrick presiding).

28 **1.4** The "Named Plaintiffs" are Plaintiffs Lucieann Talamantes, Robert Cahigal, Hector
Garcia, Dewey Takagi, Brian Holliday, and Tina Diemer.

1 **1.5** The “Opt-in Plaintiffs” are the Named Plaintiffs and those other individuals who filed
2 (and did not withdraw) written consents to join this action pursuant to 29 U.S.C. § 216(b). Class
3 Counsel and Defense Counsel have agreed upon a list of all Opt-in Plaintiffs, which is attached to
4 this Agreement as **Exhibit A**. For purposes of this Agreement only, Defendant does not contest the
5 validity of the written consents filed by the Opt-in Plaintiffs, the eligibility of the Opt-in Plaintiffs to
6 participate in the Civil Action, or the right of the Opt-in Plaintiffs to participate in the settlement in
7 accordance with the terms of this Agreement.

8 **1.6** The “FLSA Class Members” are the Opt-in Plaintiffs.

9 **1.7** “Class Counsel” means Laura L. Ho, Byron Goldstein, William C. Jhaveri-Weeks, of
10 the law firm of Goldstein, Borgen, Dardarian & Ho (300 Lakeside Drive, Suite 1000, Oakland, CA
11 94612) and Bruce Fox and Andrew Horowitz of the law firm of Obermayer Rebmann Maxwell and
12 Hippel LLP (BNY Mellon Center 500 Grant Street Suite 5240 Pittsburgh, PA 15219).

13 **1.8** “California Rule 23 Class Members” means all individuals who are identified by
14 Defendant as having worked as a Business Development Representative for PPG Industries, Inc.
15 and/or any subsidiary (including PPG Architectural Finishes, Inc.) and/or any predecessor (including
16 Akzo Nobel Paints LLC) in California during any workweek from September 3, 2009 through
17 March 31, 2013 (the “Class Period”). While some of the Opt-in Plaintiffs who worked in California
18 are also technically California Rule 23 Class Members, they shall be subject to the provisions of this
19 Agreement pertaining to the Opt-in Plaintiffs, not those pertaining to the California Rule 23 Class
20 (e.g., they will not receive Notice pursuant to Section 3.3 and they will not have the ability to request
21 exclusion from the settlement, or object to the class action settlement). Class Counsel and Defense
22 Counsel have agreed upon a list of California Rule 23 Class Members, which is attached as **Exhibit**
23 **B**.

24 **1.9** “Participating Claimants” means all Opt-in Plaintiffs, as well as all California Rule 23
25 Class Members who do not request exclusion from the class.

26 **1.10** “Defendant” means Defendant PPG Industries, Inc.

27 **1.11** “Defense Counsel” means Robert W. Pritchard, Christopher Michalski, Karin Cogbill
28 and Sophia Behnia of Littler Mendelson, P.C.

1 **1.12** “Parties” means the Named Plaintiffs (on behalf of themselves and all Opt-in
2 Plaintiffs and all California Rule 23 Class Members), and Defendant.

3 **1.13** “Claims Administrator” means KCC Class Action Services, LLC.

4 **1.14** The “Preliminary Approval Order” means the order to be entered by the Court
5 granting preliminary approval to the settlement described in this Agreement following submission to
6 the Court of Plaintiffs’ motion for an order granting preliminary approval to the California Rule 23
7 class action settlement described in this Agreement, certifying a California Rule 23 class for
8 settlement purposes only, authorizing notice of the settlement to the California Rule 23 Class
9 Members, and setting a date for a hearing to consider final approval of the settlement following
10 notice to the California Rule 23 Class Members (“Fairness Hearing”). The proposed Preliminary
11 Approval Order that will be submitted to the Court with the Plaintiffs’ motion is attached as **Exhibit**
12 **C**.

13 **1.15** The “Final Approval Order” means the order to be entered by the Court (1) granting
14 approval to the FLSA settlement described in this Agreement; (2) granting final approval to the
15 California Rule 23 class action settlement described in this Agreement; and (3) dismissing the Civil
16 Action with prejudice in accordance with the terms of this Agreement. The proposed Final Approval
17 Order that will be submitted to the Court with Plaintiffs’ motion is attached as **Exhibit D**.

18 **1.16** “Effective Date” means the date upon which all of the following have occurred in the
19 Civil Action without any material alteration of the terms of this Agreement: (a) entry of the Final
20 Approval Order; and (b) the expiration of the appeal rights of the Parties, FLSA Class Members and
21 California Rule 23 Class Members. In the event no notice of appeal, or request to extend the time to
22 appeal, is filed, the date of expiration of the appeal rights of the Parties, FLSA Class Members and
23 California Rule 23 Class Members shall be deemed to occur 35 days after entry of the Final
24 Approval Order. However, in the event no California Rule 23 Class Member presents objections to
25 the proposed settlement, and Class Counsel and the Parties file with the Court a waiver of their right
26 to appeal after entry of the Final Approval Order, then the Effective Date shall be the day after the
27 filing of the waiver.

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1 **1.17** “Released Parties” means: (a) PPG Industries, Inc. and PPG Architectural Finishes,
2 Inc.; (b) Akzo Nobel N.V. and Akzo Nobel Paints LLC; and (c) the predecessors, successors, present
3 and former affiliates, parents, subsidiaries, insurers, officers, directors, agents, members,
4 shareholders, general partners, limited partners, owners, beneficiaries, representatives, heirs,
5 attorneys, assigns (including without limitation, any investors, trusts, or other similar or affiliated
6 entities) of, and all persons acting by, through, under or in concert with, any of the entities named in
7 sections (a) and/or (b) of this paragraph, including any person or entity that was or could have been
8 named as a defendant in the Civil Action.

9 **1.18** “Maximum Gross Settlement Amount” means the maximum amount of money to be
10 paid by Defendant in connection with this Agreement. The Maximum Gross Settlement Amount is
11 \$5,000,000. Under no circumstances shall Defendant be required to pay more than the Maximum
12 Gross Settlement Amount in connection with the settlement of the Civil Action (except that
13 Defendant shall be responsible for the payment of the employer share of FICA, FUTA, and SUTA,
14 from funds outside the Maximum Gross Settlement Amount). The Maximum Gross Settlement
15 Amount shall be allocated to the Settlement Payment Allocation, the Attorney’s Fees and Expenses
16 Payment, the Enhancement Payments, the Administrative Costs, and the Named Plaintiffs’ claim
17 under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), as follows:

18 **(a)** The “Settlement Payment Allocation” means that portion of the Maximum
19 Gross Settlement Amount to be allocated and made available for payment to the FLSA Class
20 Members and California Rule 23 Class Members in accordance with this Agreement. The total
21 Settlement Payment Allocation is \$3,163,333, although this amount may be increased in accordance
22 with Section 1.18(b)-(c) if the Court reduces the Attorney’s Fees and Expenses Payment and/or the
23 Enhancement Payments. The “Individual Settlement Allocation” for each of the FLSA Class
24 Members and California Rule 23 Class Members is set forth in **Exhibits A and B**. The cumulative
25 total of each Individual Settlement Allocation of all Opt-in Plaintiffs and California Rule 23 Class
26 Members shall equal the Settlement Payment Allocation.

27 **(b)** The “Attorney’s Fees and Expenses Payment” means the total amount of
28 money (up to \$1,766,667) to be paid by Defendant to Class Counsel in accordance with the Final

1 Approval Order, as attorney's fees and costs and expenses incurred in the Civil Action. Prior to the
2 submission of the motion seeking entry of the Final Approval Order, Class Counsel will seek an
3 award of attorney's fees not to exceed one-third (1/3) of the Maximum Gross Settlement Amount
4 (\$1,666,667), and an award of its actual costs and expenses in an amount not to exceed \$100,000.
5 Defendant will not oppose this request. If the Court awards less than \$1,766,667 as the total
6 Attorney's Fees and Expenses Payment, this shall not be a basis for voiding this Agreement; rather,
7 the difference in the amount awarded shall be re-allocated to the Settlement Payment Allocation,
8 thereby increasing each individual's Individual Settlement Allocation.

9 (c) The "Enhancement Payments" means the amount of money (up to a total of
10 \$30,000) to be paid by Defendant to the six Named Plaintiffs. Prior to the submission of the motion
11 seeking entry of the Final Approval Order, Class Counsel may seek an award of enhancement
12 payments of \$5,000 each to the six Named Plaintiffs, for a total of \$30,000, in recognition of their
13 work in this Civil Action on behalf of the FLSA Class Members and California Rule 23 Class
14 Members. These payments shall be treated as non-wage income and shall be in addition to whatever
15 payments these individuals may be eligible to receive as FLSA Class Members and California Rule
16 23 Class Members. Defendants will not oppose this request. If the Court awards less than \$30,000
17 as the total Enhancement Payments, this shall not be a basis for voiding, objecting to or appealing
18 from the Final Approval Order; rather, the difference in the amount awarded shall be re-allocated to
19 the Settlement Payment Allocation, thereby increasing each individual's Individual Settlement
20 Allocation.

21 (d) "Administrative Costs" means the maximum amount of money (\$30,000) to
22 be paid by Defendant to the Claims Administrator for the services it will provide under this
23 Agreement. Defendant shall not be responsible for any costs of settlement administration that may
24 exceed this amount.

25 (e) In addition to the foregoing, the Parties shall allocate \$10,000 to the Plaintiffs'
26 PAGA claim, brought by Named Plaintiffs on behalf of all FLSA Class Members and California
27 Rule 23 Class Members who worked for Defendant in California at any time between August 30,
28 2012, and March 31, 2013 ("PAGA Participants"). Class Counsel and Defense Counsel have agreed

1 upon a list of PAGA Participants, who are identified on **Exhibits A and B** as having an amount
2 allocated to the PAGA claim (the “PAGA Allocation”). Each individual PAGA Allocation shall be
3 payable 75% to the Labor and Workforce Development Agency and 25% to the PAGA Participant.

4 (f) The total of the Settlement Payment Allocation, the Attorney’s Fees and
5 Expenses Payment, the Enhancement Payments, the Administrative Costs and the PAGA
6 Allocations shall not exceed the Maximum Gross Settlement Amount.

7 **2. RECITALS AND SETTLEMENT TERMS**

8 **2.1** This case is an FLSA collective action and a putative California Rule 23 class action
9 brought by the Named Plaintiffs on behalf of current and former employees of Defendant who
10 worked as a Business Development Representative for PPG Industries, Inc. and/or any subsidiary
11 (including PPG Architectural Finishes, Inc.) and/or any predecessor (including Akzo Nobel Paints
12 LLC) during any workweek from September 3, 2009 (or September 3, 2010 with respect to the
13 FLSA collective action) through March 31, 2013. The Named Plaintiffs claim that Defendant failed
14 to pay them for all hours worked, including statutory overtime for hours worked over 40 per week in
15 violation of the FLSA, and for hours worked over 8 in a day and/or 40 per week in violation of the
16 California Labor Code. The Named Plaintiffs also assert various claims under the California Labor
17 Code on behalf of the FLSA Class Members who worked in California, and the California Rule 23
18 Class Members, including claims that Defendant failed to provide, authorize and/or permit all
19 statutory meal periods and rest breaks, failed to provide accurate wage statements and failed to
20 timely pay wages. The Named Plaintiffs seek compensation on behalf of themselves, the FLSA
21 Class Members and the California Rule 23 Class Members, for alleged unpaid wages, as well as
22 other relief under the FLSA and California state law, including liquidated damages, interest,
23 penalties, litigation costs and expenses, and attorney’s fees.

24 **2.2** Defendant vigorously denies the allegations in the Civil Action and states that it did
25 not violate the law and that it has no liability for any claims raised in the Civil Action, but has agreed
26 to the terms of this Agreement in order to avoid the expense and disruption of further litigation.
27 Nothing in this Agreement shall be deemed or used as an admission of liability by Defendant or the
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1 Released Parties, or an admission that a class should be certified for any purpose other than
2 settlement.

3 **2.3** During the pendency of this action, Class Counsel conducted extensive discovery
4 concerning Defendant's policies and payroll practices, job duties of Business Development
5 Representatives, and performance expectations of Business Development Representatives, on behalf
6 of the FLSA Class Members and the California Rule 23 Class Members. The Parties engaged in a
7 formal, arm's length mediation on September 15, 2015, conducted by mediator Mark Rudy.

8 **2.4** It is the intention of the Parties that this Agreement shall constitute a full and
9 complete settlement and release of all Released Claims as defined in Section 5 herein against all
10 Released Parties.

11 **2.5** In exchange for (a) the dismissal of Civil Action with prejudice; (b) the settlement
12 and release of all Released Claims as defined in Section 5 herein against all Released Parties; and (c)
13 otherwise subject and pursuant to the terms and conditions of this Agreement, Defendant has agreed
14 to pay the Maximum Gross Settlement Amount.

15 **2.6** The Parties shall cooperate in the formal steps necessary to carry out the terms set
16 forth in this Agreement, which is subject to approval by the Court.

17 **3. APPROVAL AND NOTICE PROCEDURES**

18 **3.1** The Parties shall seek Court approval of this Agreement as follows:

19 **(a)** by filing with the Court, no later than fourteen (14) days following the date on
20 which this Agreement is executed by all Parties, Plaintiffs' motion for an order certifying a
21 California Rule 23 settlement class for settlement purposes only, authorizing and approving notice to
22 the California Rule 23 Class Members, granting preliminary approval to the settlement and setting a
23 date for a Fairness Hearing; and

24 **(b)** by filing with the Court, within the time period set forth in Section 3.4,
25 Plaintiffs' motion for an order (i) approving the terms of the FLSA settlement by the FLSA Class
26 Members as described in this Agreement and (ii) granting final approval of the California Rule 23
27 Class Action Settlement described in this Agreement.

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1 Also, in connection with, and prior to, the Plaintiffs' motion seeking entry of the Final
2 Approval Order, Named Plaintiffs will file with the Court their motion for: (1) an Attorney's Fees
3 and Expenses Payment, comprising a request for attorney's fees not to exceed \$1,666,667, and actual
4 costs and expenses in an amount not to exceed \$100,000; and (2) Enhancement Payments of \$5,000
5 each to the six Named Plaintiffs. Defendant will not oppose this motion.

6 **3.2 FLSA Class Members Deemed Participating Claimants.**

7 Named Plaintiffs and Class Counsel represent that they are fully authorized to enter into this
8 Agreement and to bind the FLSA Class Members to the terms and conditions of this Agreement,
9 including the Release of Claims set forth in Section 5. Accordingly, all FLSA Class Members shall
10 be deemed Participating Claimants. **See Exhibit A.**

11 **3.3 Notice Procedure for California Rule 23 Class Members.**

12 (a) Not later than three (3) days after the date of the Preliminary Approval Order,
13 Defendant will provide the Claims Administrator with an Excel chart listing the names and last
14 known addresses of the California Rule 23 Class Members.

15 (b) Within fourteen (14) days after the date of the Preliminary Approval Order,
16 the Claims Administrator shall mail, via First Class United States mail, the Notice of Proposed
17 Settlement of Class Action Lawsuit and Fairness Hearing ("Notice") in the form attached as **Exhibit**
18 **E**, to all California Rule 23 Class Members using each individual's last known address. The Claims
19 Administrator shall perform a national change of address database review prior to mailing. If any
20 Rule 23 Notice Packet is returned as undeliverable, the Claims Administrator shall promptly advise
21 Class Counsel and attempt to locate such California Rule 23 Class Member through one skip trace
22 and, if a new address is identified, shall promptly mail an additional Rule 23 Notice Packet to such
23 person.

24 (c) Any California Rule 23 Class Member who does not wish to become a
25 Participating Claimant may request exclusion from the class by submitting a signed request for
26 exclusion to the Claims Administrator. To be effective, such request for exclusion must include the
27 individual's name and an unequivocal statement that the individual requests to be excluded from the
28 class, and it must be received by the Claims Administrator within thirty (30) days following the date

1 of the initial mailing of the Rule 23 Notice Packet (this 30-day period shall be referred to herein as
2 the “Opt-Out Period”). The Claims Administrator shall deliver copies of each request for exclusion
3 to Class Counsel and Defense Counsel not later than five (5) business days after receipt thereof.
4 Class Counsel shall, within ten (10) business days of the end of the Opt-Out Period, file with the
5 Clerk of Courts copies of all requests for exclusion so received. All California Rule 23 Class
6 Members who do not request exclusion from the class shall be deemed Participating Claimants. If
7 twenty percent (20%) or more of the California Rule 23 Class Members request exclusion from the
8 Class during the Opt-Out Period, Defendants may in their sole discretion elect to void this
9 Agreement by providing written notice to Class Counsel and to the Court within thirty (30) days
10 after receiving notice that the above-referenced event has occurred. In the event Defendants elect to
11 void the Agreement, the Agreement shall be terminated and shall have no force or effect, and the
12 Parties shall not request entry of the Final Approval Order.

13 **(d)** Any California Rule 23 Class Members who wish to present objections to the
14 proposed settlement at the Fairness Hearing must do so first in writing. To be considered, such
15 statements must be sent to the Court in accordance with the Court’s Procedural Guidance for Class
16 Action Settlements, and be postmarked by a date certain, to be specified on the Notice, which shall
17 be for each California Rule 23 Class Member thirty (30) days after the initial mailing of the Claims
18 Administrator of the Notice. An objector who timely submits a written objection may appear at the
19 Fairness Hearing either in person or through counsel hired by the objector. An objector who wishes
20 to appear at the Fairness Hearing must state his or her intention to do so at the time he or she submits
21 his or her written objections. An objector may withdraw his or her objections at any time. No
22 California Rule 23 Class Member may appear at the Fairness Hearing or appeal from the Final
23 Approval Order unless he or she has filed a timely objection that complies with the procedures
24 provided herein. Any California Rule 23 Class Member who requests exclusion from the class may
25 not submit objections to the settlement. The Parties may file with the Court written responses to any
26 filed objections no later than fourteen (14) calendar days before the Fairness Hearing.

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1 **3.4 Final Settlement Approval Procedures.**

2 **(a)** Not later than fourteen (14) calendar days before the Fairness Hearing, the
3 Named Plaintiffs will submit Plaintiffs' motion for Final Certification of the settlement classes and
4 Final Approval of the Settlement Agreement. Prior to filing the motion, Class Counsel shall permit
5 Defense Counsel an opportunity to review the motion and propose revisions. The date of the
6 Fairness Hearing will be set by the Court.

7 **(b)** At the Fairness Hearing, the Parties shall request that the Court issue a Final
8 Approval Order in all material respects identical to **Exhibit D**.

9 **4. PAYMENT OBLIGATIONS**

10 **4.1** No later than seven (7) days following the Effective Date, the Claims Administrator
11 shall provide a report to Class Counsel and Defense Counsel stating the total amount of funds (not
12 exceeding the Maximum Gross Settlement Amount, with the exception of the employer share of
13 FICA, FUTA, and SUTA) required to satisfy all payment obligations pursuant to this Agreement.
14 This report shall state the amount of the Court-approved Attorney's Fees and Expenses Payment, the
15 amount of the Court-approved Enhancement Payments, the amount of the Court-approved
16 Administrative Costs and the amount of the PAGA Allocations. The report shall also state the total
17 amount allocated to Participating Claimants. The report shall also state the amount needed to satisfy
18 the employer share of FICA, FUTA, and SUTA.

19 **4.2** Not later than seven (7) days thereafter, Defendant shall remit the amount needed to
20 satisfy its obligations under this Agreement (including the amount needed to satisfy the employer
21 share of FICA, FUTA, and SUTA) to the Claims Administrator to be held in escrow for the purpose
22 of making payments as provided in this Agreement.

23 **4.3** The Claims Administrator will make the Attorney's Fees and Expenses Payment (in
24 the amount directed by the Court and in no event more than \$1,766,667) by wire transfer or by check
25 delivered to Class Counsel at an anticipated date no later than seven (7) days after the Claims
26 Administrator receives the payment from Defendant. In advance of the Effective Date, Class
27 Counsel will provide the Claims Administrator with the tax-payer identification numbers for Class
28 Counsel, executed W-9 forms, and wire instructions. The Named Plaintiffs, FLSA Class Members,

1 California Rule 23 Class Members and Class Counsel expressly waive any rights that they may have
2 to recover any other attorney's fees, costs and expenses relating to the Civil Action.

3 **4.4** Except as otherwise provided herein, the Parties shall bear responsibility for their
4 own fees, costs, and expenses incurred by them or arising out of this litigation and will not seek
5 reimbursement thereof from any party to this Agreement or the Released Parties.

6 **4.5** The Claims Administrator will make the Enhancement Payments (in the amount
7 directed by the Court and in no event more than \$30,000 in the aggregate) within fourteen (14) days
8 after the Claims Administrator receives the payment from Defendants. Any such Enhancement
9 Payments awarded shall be in addition to payments that the recipients are entitled to as Participating
10 Claimants. Any such Enhancement Payments awarded by the Court shall be distributed by the
11 Claims Administrator in separate checks mailed contemporaneously with the mailing of checks to
12 Participating Claimants and shall be reported to state and federal taxing authorities as non-wage
13 income.

14 **4.6 Payments to the Participating Claimants.**

15 **(a)** The Claims Administrator shall make payment to the Participating Claimants
16 within fourteen (14) days after the Claims Administrator receives the payment from Defendant.
17 Each Participating Claimant's Individual Settlement Allocation shall be as determined by the Claims
18 Administrator as set forth in Sections 1.18 and **Exhibits A and B**. For income and payroll tax
19 purposes, for FLSA Class Members not from California, fifty percent (50%) of each Individual
20 Settlement Allocation shall be allocated as wages (which shall be subject to required withholdings
21 and deductions and reported as wage income; the employer's share of payroll taxes associated with
22 any individual's wage payment will be paid from that individual's Individual Settlement Allocation),
23 and the remaining fifty percent (50%) shall be allocated as liquidated damages, interest and other
24 non-wage recovery (which shall not be subject to withholdings or deductions and shall be reported
25 as non-wage income). For income and payroll tax purposes, for FLSA Class Members from
26 California and for all California Rule 23 Class Members, 1/3 of each Individual Settlement
27 Allocation shall be allocated as wages, and the remaining 2/3 shall be allocated as penalties,
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1 liquidated damages, interest and other non-wage recovery (which shall not be subject to
2 withholdings or deductions and shall be reported as non-wage income).

3 **(b)** Other than the withholding and reporting requirements herein, the
4 Participating Claimants shall be solely responsible for the reporting and payment of their share of
5 any federal, state and/or local income or other taxes on payments received pursuant to this
6 Agreement. The employee portion of all applicable income and payroll taxes will be the
7 responsibility of the individual Participating Claimant, who agrees to indemnify Released Parties,
8 Class Counsel, and Defense Counsel for any tax liability, including penalties and interest, arising out
9 of or relating to the Participating Claimant's failure to pay taxes on any amounts paid pursuant to
10 this Agreement.

11 **(c)** Participating Claimants will have one hundred eighty (180) days from the date
12 the checks are issued to negotiate them. Sixty (60) days from the date of mailing of the checks, the
13 Claims Administrator will provide Class Counsel with a report reflecting which Participating
14 Claimants have not yet negotiated their checks. Class Counsel will be free to contact any such
15 individual to encourage them to promptly negotiate their checks. Participating Claimants shall be
16 bound by the terms of this Agreement even if they fail to timely negotiate their checks, and any such
17 payments will escheat to the applicable state fund as unclaimed property (e.g., the California
18 unclaimed wages fund).

19 **4.7** Released Parties, Class Counsel, and Defense Counsel will not be liable for checks
20 cashed by persons other than the Participating Claimants. Each Participating Claimant will be
21 deemed to have released the Released Parties from all liability as set forth in this Agreement even if
22 his or her check is cashed by a person other than to whom the check is written.

23 **4.8** Payments made under this Agreement are not intended to and will not: (1) form the
24 basis for additional contributions to, benefits under, or any other monetary entitlements under; (2)
25 count as earnings or compensation with respect to; or (3) be considered to apply to, or be applied for
26 purposes of, any bonus, pension, any 401(k) and/or other retirement plans or similar programs of any
27 of the Released Parties.
28

1 **5. RELEASES**

2 **5.1 Release of Claims**

3 The following release of claims shall be referred to collectively as “Released Claims”:

4 (a) By operation of this Agreement and except as to such rights or claims as may
5 be created by this Agreement or those nonwaivable by law, the Named Plaintiffs (on behalf of
6 themselves and all FLSA Class Members and California Rule 23 Class Members and all of their
7 respective heirs, executors, administrators, personal representatives, successors and assigns) hereby
8 irrevocably and unconditionally forever and fully release and covenant not to sue or otherwise
9 pursue claims, whether known or unknown, against Released Parties that were asserted in the
10 operative complaint in the Civil Action or that could have been asserted in the Civil Action based
11 upon the facts alleged in the operative complaint, including but not limited to all claims, demands,
12 and causes of action for unpaid wages, penalties, liquidated damages, costs, attorney’s fees, and any
13 other relief under the federal FLSA, 29 U.S.C. § 201, *et seq.*, California state law (including but not
14 limited to the California Labor Code), and any other analogous state or local laws, arising at any
15 time up until September 15, 2015, and any claims that are derivative of any of the foregoing. For
16 Named Plaintiffs and all Opt-in Plaintiffs, the term “Released Claims” shall also include any and all
17 claims for retaliation related to their participation in the Civil Action. The settlement payment
18 checks to the Participating Claimants will include a statement confirming the recipient’s consent to
19 participate in the action for the purpose of release claims as set forth herein and receiving the
20 settlement payment.

21 (b) By operation of this Agreement and except as to such rights or claims as may
22 be created by this Agreement or those nonwaivable by law, all California Rule 23 Class Members
23 who do not timely exclude themselves from the class in accordance with this Agreement, shall by
24 operation of the Final Approval Order, on behalf of themselves and their respective heirs, executors,
25 administrators, personal representatives, successors and assigns, irrevocably and unconditionally
26 forever and fully release all Released Parties from any and all claims that were asserted in the
27 operative complaint in the Civil Action or that could have been asserted in the Civil Action based
28 upon the facts alleged in the operative complaint (including but not limited to claims arising under

1 the California Labor Code), including but not limited to all claims, demands, and causes of action for
2 unpaid regular and/or overtime wages, penalties, liquidated damages, costs, attorney's fees, and any
3 other relief under California law, arising at any time up until September 15, 2015. The settlement
4 payment checks to the Participating Claimants will include a statement confirming the recipient's
5 consent to participate in the action for the purpose of release claims as set forth herein and receiving
6 the settlement payment.

7 (c) Named Plaintiffs (on behalf of themselves and all FLSA Class Members)
8 acknowledge that they each may have claims related to the Released Claims that are presently
9 unknown and that the release contained in this Agreement is intended to, and will fully, finally and
10 forever, discharge even such claims, whether now asserted or unasserted, known or unknown, to the
11 extent they fall within the description of the Released Claims. Accordingly, Named Plaintiffs (on
12 behalf of themselves and all FLSA Class Members) understand and agree to waive the provisions of,
13 and relinquish all rights and benefits afforded by, California Civil Code Section 1542 or any statute
14 or rule of similar effect. Civil Code Section 1542 provides in full as follows:

15 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**
16 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
17 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**
18 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS**
19 **OR HER SETTLEMENT WITH THE DEBTOR.**

20 In giving this waiver, Named Plaintiffs (on behalf of themselves and all FLSA Class Members)
21 acknowledge that they have been advised of California Civil Code Section 1542, they may hereafter
22 discover facts in addition to or different from those that they now believe to be true with respect to
23 the subject matter released herein, but agree that they have taken that possibility into account in
24 reaching this Agreement and that, notwithstanding the discovery or existence of any such additional
25 or different facts, as to which they expressly assume the risk, they freely and voluntarily give the
26 release set forth above. Upon entry of the Final Approval Order, every Participating Claimant shall
27 be deemed to have given this release.

28 5.2 Named Plaintiffs (on behalf of themselves and all FLSA Class Members) represent
and warrant that they have not assigned or transferred, or purported to assign or transfer, to any

1 person or entity, any of the Released Claims or any portion thereof or interest therein, including but
2 not limited to, any interest in the Civil Action, or any related action.

3 **6. PARTIES' AUTHORITY**

4 **6.1** All Parties have been represented by counsel throughout all negotiations which
5 preceded the execution of this Agreement and this Agreement is made with the consent and advice
6 of counsel. Class Counsel believe that the terms and conditions of this settlement are fair,
7 reasonable, adequate, and beneficial to and in the best interest of Named Plaintiffs, the FLSA Class
8 Members and the California Rule 23 Class Members. Named Plaintiffs and Class Counsel represent
9 that they are fully authorized to enter into this Agreement and to bind the FLSA Class Members and
10 the California Rule 23 Class Members (who do not timely request exclusion) to the terms and
11 conditions thereof.

12 **6.2** All of the Parties acknowledge that they have been represented by competent,
13 experienced counsel throughout all negotiations which preceded the execution of this Agreement,
14 and this Agreement is made with the consent and advice of counsel who have jointly prepared this
15 Agreement.

16 **6.3** It is agreed that because the FLSA Class Members and California Rule 23 Class
17 Members are so numerous, it is impossible or impractical to have each member execute this
18 Agreement. To that end, Named Plaintiffs will execute this Agreement and bind the FLSA Class
19 Members and the California Rule 23 Class Members (who do not timely request exclusion) to the
20 terms and conditions thereof. The Notice of Proposed Settlement of Class Action Lawsuit and
21 Fairness Hearing will advise all California Rule 23 Class Members, of the binding nature of the
22 release as described in this Agreement, as well as the other material terms of the Agreement.

23 **6.4** The Agreement will be binding upon and inure to the benefit of the Parties and their
24 respective heirs, trustees, executors, administrators, successors, and assigns.

25 **7. CONFIDENTIALITY**

26 **7.1** Prior to the filing of the motion for preliminary approval of this Agreement, Named
27 Plaintiffs and Class Counsel agree that they will not reveal the terms of this Agreement to anyone
28 except their spouse or domestic partner and/or personal tax advisors, provided that they obtain from

1 such person(s) (who shall be deemed to be their agents for purposes of this provision) an agreement
2 to keep such information confidential.

3 **7.2** The Parties, Class Counsel and Defense Counsel shall all refrain from issuing or
4 maintaining any press release, or press outreach communicating any information about the Civil
5 Action or this Agreement. If contacted by media representatives with respect to the Civil Action or
6 this Agreement, the Parties, Class Counsel and Defense Counsel will say only that the Parties
7 amicably resolved the dispute, without providing additional information or commentary.

8 **7.3** The Parties shall comply with the Stipulated Confidentiality and Protective Order
9 (Docket No. 37).

10 **7.4** For one year from the date of this Agreement, Named Plaintiffs agree not to
11 encourage or solicit any other individuals who were or are currently employed in the position of
12 Business Development Representative or Territory Manager to commence or to participate in the
13 commencement of any action against Defendant or Released Parties with regard to potential claims
14 that they might have against Defendant or Released Parties, where such claims arose prior to the date
15 of this Agreement and involve wage and hour matters and/or claims analogous to the Released
16 Claims.

17 **7.5** As a material condition of this Settlement Agreement, for one year from the date of
18 this Agreement, Class Counsel agree not to solicit any other individuals who were or are currently
19 employed in the position of Business Development Representative or Territory Manager with regard
20 to potential claims that they might have against Defendant or any Released Parties, where such
21 claims arose prior to the date of this Agreement and involve wage and hour matters and/or claims
22 analogous to the Released Claims. So long as Class Counsel complies with the foregoing
23 provisions, nothing in this paragraph precludes Class Counsel from representing anyone who
24 chooses to be represented by them in matters adverse to Defendant or any Released Parties.

25 **7.6** Named Plaintiffs and Class Counsel agree that Defendant's reputation, standing in the
26 community, credibility, and future business opportunities may be diminished and they may suffer
27 other losses in the event of a material breach of Section 7 of this Settlement Agreement. Thus,
28 Named Plaintiffs and Class Counsel agree that in the event of a material breach of Section 7 by any

1 of them: (1) the party in breach of Section 7 (and any other party who encouraged and/or facilitated
2 the breach) shall return to Defendant any funds paid by Defendant to that party and shall be entitled
3 to no further recovery under this Agreement; and (2) Defendant shall have the right to obtain specific
4 performance of Section 7 by the party(ies), damages, and/or any other necessary and proper relief, in
5 any court of competent jurisdiction.

6 **8. ADDITIONAL PROVISIONS**

7 **8.1** The Parties agree to use their best efforts and to fully cooperate with each other to
8 accomplish the terms of this Agreement in a reasonable, practicable, and expeditious manner,
9 including but not limited to, execution of such documents and to take such other action as may
10 reasonably be necessary to implement and effectuate the terms of this Agreement.

11 **8.2** Unless otherwise specifically provided herein, all notice, demands or other
12 communications given hereunder shall be in writing and shall be deemed to have been duly given as
13 of the third business day after mailing by United States registered or certified mail, return receipt
14 requested, addressed as follows:

15 **To the Plaintiffs/Settlement Class:**

Laura L. Ho	Bruce Fox
Byron Goldstein	Andrew Horowitz
William C. Jhaveri-Weeks	Obermayer Rebmann Maxwell and Hippel LLP
Goldstein, Borgen, Dardarian & Ho	500 Grant Street
300 Lakeside Drive	BNY Mellon Center
Suite 1000	Suite 5240
Oakland, CA 94612	Pittsburgh, PA 15219

20 **To Defendants:**

Robert W. Pritchard	Karin Cogbill
Christopher Michalski	Sophia Behnia
Little Mendelson, P.C.	Little Mendelson, P.C.
625 Liberty Avenue, 26th Floor	50 West San Fernando St., 15th Floor
Pittsburgh, PA 15222	San Jose, CA 95113

25 **8.3** To be effective, any amendment to the Agreement must be made in writing and
26 signed by counsel for the Parties, and approved by the Court.

1 **8.4** This Agreement and its attachments constitute the entire agreement between the
2 Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms
3 shall modify, vary, or contradict the terms of this Agreement. In the event of any conflict between
4 the Agreement and any other document, the Parties intend that this Agreement shall be controlling.

5 **8.5** This Agreement shall be subject to, governed by, construed, enforced, and
6 administered in accordance with the laws of the State of California, both in its procedural and
7 substantive aspects, and shall be subject to the continuing exclusive jurisdiction of the Court. This
8 Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for
9 or against any party, regardless of who drafted or who was principally responsible for drafting this
10 Agreement or any specific term or condition thereof.

11 **8.6** This Agreement may be executed in counterparts, and when each party has signed
12 and delivered at least one such counterpart, each counterpart shall be deemed an original and, when
13 taken together with other signed counterparts, shall constitute one Agreement, which shall be
14 binding upon and effective as to all Parties.


15 **8.7** The Named Plaintiffs, Class Counsel, and Defense Counsel agree not to encourage,
16 assist, or solicit persons to exclude themselves from the settlement class or object to the settlement.

17 **8.8** If the Court declines to enter, in the form submitted by Plaintiffs as contemplated
18 under this Agreement (or any amended version agreed upon by the Parties), the Preliminary
19 Approval Order or the Final Approval Order applicable to this Agreement, or if the settlement as
20 agreed does not become final for any other reason, then there shall be no prejudice due to lapse of
21 time to either side and the Parties may proceed with litigation as it existed on the date of the
22 execution of this Agreement. If this Agreement is not approved, the case will proceed as if no
23 settlement had been attempted, and Defendants retain the right to contest whether this case should be
24 maintained as a collective and/or class action and to contest the merits of any claims being asserted
25 in the Civil Action.

26 **8.9** In the event that the Parties discover, in the course of the Notice process and
27 distribution of settlement payments, that individuals were erroneously not included on Exhibit B
28

1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

5 Dated: Oct 1, 2015 
6 Named Plaintiff Lucieann Talamantes
7 Class Representative (FLSA and California)

8 Dated: _____
9 Named Plaintiff Robert Cahigal
10 Class Representative (FLSA and California)

11 Dated: _____
12 Named Plaintiff Hector Garcia
13 Class Representative (FLSA and California)

14 Dated: _____
15 Named Plaintiff Dewey Takagi
16 Class Representative (FLSA and California)

17 Dated: _____
18 Named Plaintiff Brian Holliday
19 Class Representative (FLSA)

20 Dated: _____
21 Named Plaintiff Tina Dicmer
22 Class Representative (FLSA and California)

23 Dated: _____
24 Goldstein, Borgon, Dardarian & Iio
25 Class Counsel

26 Dated: _____
27 Obermayer Rebmann Maxwell and Hippel LLP
28 Class Counsel

Dated: _____
PPG Industries, Inc.

Dated: _____
Littler Mendelson, P.C.
Defense Counsel

who did, in fact, fall within the class definition, the parties do not intend to explore the possibility of seeking to include any such individual within the settlement, and if so on what terms.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereby execute this Agreement on the dates indicated below:

Dated: _____

Named Plaintiff Lucieann Talamantes
Class Representative (FLSA and California)

Dated: OCT, 1 2015

Robert Cahigal
Named Plaintiff Robert Cahigal
Class Representative (FLSA and California)

Dated: _____

Named Plaintiff Hector Garcia
Class Representative (FLSA and California)

Dated: _____

Named Plaintiff Dewey Takagi
Class Representative (FLSA and California)

Dated: _____

Named Plaintiff Brian Holliday
Class Representative (FLSA)

Dated: _____

Named Plaintiff Tina Diemer
Class Representative (FLSA and California)

Dated: _____

Goldstein, Borgen, Dardarian & Ho
Class Counsel

Dated: _____

Obermayer Rebmann Maxwell and Hippel LLP
Class Counsel

Dated: _____

PPG Industries, Inc.

Dated: _____

Littler Mendelson, P.C.
Defense Counsel

1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

5 Dated: _____
6 _____
7 Named Plaintiff Lucieann Talamantes
8 Class Representative (FLSA and California)

9 Dated: _____
10 _____
11 Named Plaintiff Robert Cahigal
12 Class Representative (FLSA and California)

13 Dated: 10/02/2015
14 _____
15 Named Plaintiff Hector Garcia
16 Class Representative (FLSA and California)

17 Dated: _____
18 _____
19 Named Plaintiff Dewey Takagi
20 Class Representative (FLSA and California)

21 Dated: _____
22 _____
23 Named Plaintiff Brian Holliday
24 Class Representative (FLSA)

25 Dated: _____
26 _____
27 Named Plaintiff Tina Diemer
28 Class Representative (FLSA and California)

Dated: _____

Goldstein, Borgen, Dardarian & Ho
Class Counsel

Dated: _____

Obermayer Rebmann Maxwell and Hippel LLP
Class Counsel

Dated: _____

PPG Industries, Inc.

Dated: _____

Littler Mendelson, P.C.
Defense Counsel

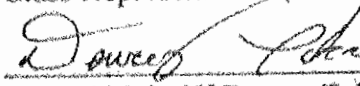
1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

5 Dated: _____
6 Named Plaintiff Lucicann Talamantes
7 Class Representative (FLSA and California)

8 Dated: _____
9 Named Plaintiff Robert Cahigal
10 Class Representative (FLSA and California)

11 Dated: _____
12 Named Plaintiff Hector Garcia
13 Class Representative (FLSA and California)

14 Dated: 10/02/2015
15 
16 Named Plaintiff Dewey Takagi
17 Class Representative (FLSA and California)

18 Dated: _____
19 Named Plaintiff Brian Holliday
20 Class Representative (FLSA)

21 Dated: _____
22 Named Plaintiff Tina Diemer
23 Class Representative (FLSA and California)

24 Dated: _____
25 Goldstein, Borgen, Dardarian & Ho
26 Class Counsel

27 Dated: _____
28 Obermayer Rebmann Maxwell and Hippel LLP
Class Counsel

PPG Industries, Inc.

Littler Mendelson, P.C.
Defense Counsel

1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

5 Dated: _____
6 _____
7 Named Plaintiff Lucieann Talamantes
8 Class Representative (FLSA and California)

9 Dated: _____
10 _____
11 Named Plaintiff Robert Cahigal
12 Class Representative (FLSA and California)

13 Dated: _____
14 _____
15 Named Plaintiff Hector Garcia
16 Class Representative (FLSA and California)

17 Dated: _____
18 _____
19 Named Plaintiff Dewey Takagi
20 Class Representative (FLSA and California)

21 Dated: 10/1/15 _____
22 _____
23 Named Plaintiff Brian Holliday
24 Class Representative (FLSA)

25 Dated: _____
26 _____
27 Named Plaintiff Tina Diemer
28 Class Representative (FLSA and California)

Goldstein, Borgen, Dardarian & Ho
Class Counsel

Obermayer Rebmann Maxwell and Hippel LLP
Class Counsel

PPG Industries, Inc.

Littler Mendelson, P.C.
Defense Counsel

1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

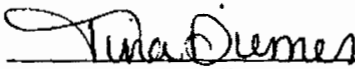
5 Dated: _____
6 Named Plaintiff Lucieann Talamantes
Class Representative (FLSA and California)

7 Dated: _____
8 Named Plaintiff Robert Cahigal
Class Representative (FLSA and California)

9 Dated: _____
10 Named Plaintiff Hector Garcia
Class Representative (FLSA and California)

11 Dated: _____
12 Named Plaintiff Dewey Takagi
Class Representative (FLSA and California)

13 Dated: _____
14 Named Plaintiff Brian Holliday
Class Representative (FLSA)

15 Dated: 10/1/15
16 
17 Named Plaintiff Tina Diemer
Class Representative (FLSA and California)

18 Dated: _____
19 Goldstein, Borgen, Dardarian & Ho
Class Counsel

20 Dated: _____
21 Obermayer Rebmann Maxwell and Hippel LLP
Class Counsel

22 Dated: _____
23 PPG Industries, Inc.

24 Dated: _____
25 Littler Mendelson, P.C.
26 Defense Counsel

1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

5 Dated: _____
6 Named Plaintiff Lucieann Talamantes
7 Class Representative (FLSA and California)

8 Dated: _____
9 Named Plaintiff Robert Cahigal
10 Class Representative (FLSA and California)

11 Dated: _____
12 Named Plaintiff Hector Garcia
13 Class Representative (FLSA and California)

14 Dated: _____
15 Named Plaintiff Dewey Takagi
16 Class Representative (FLSA and California)

17 Dated: _____
18 Named Plaintiff Brian Holliday
19 Class Representative (FLSA)

20 Dated: _____
21 Named Plaintiff Tina Diemer
22 Class Representative (FLSA and California)

23 Dated: Oct. 2, 2015
24 Goldstein, Borgen, Dardarian & Ho
25 Class Counsel

26 Dated: _____
27 Obermayer Rebmann Maxwell and Hippel LLP
28 Class Counsel

Dated: October 1, 2015
PPG Industries, Inc. - Scott Sinetar

Dated: October 2, 2015
Littler Mendelson, P.C.
Defense Counsel

1 who did, in fact, fall within the class definition, the parties will meet and confer about the possibility
2 of seeking to include any such individual within the settlement, and if so on what terms.

3 **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute
4 this Agreement on the dates indicated below:

5 Dated: _____
6 _____
7 Named Plaintiff Lucieann Talamantes
8 Class Representative (FLSA and California)

9 Dated: _____
10 _____
11 Named Plaintiff Robert Cahigal
12 Class Representative (FLSA and California)

13 Dated: _____
14 _____
15 Named Plaintiff Hector Garcia
16 Class Representative (FLSA and California)

17 Dated: _____
18 _____
19 Named Plaintiff Dewey Takagi
20 Class Representative (FLSA and California)

21 Dated: _____
22 _____
23 Named Plaintiff Brian Holliday
24 Class Representative (FLSA)

25 Dated: _____
26 _____
27 Named Plaintiff Tina Diemer
28 Class Representative (FLSA and California)

20 Dated: 10/1/15 _____
21 _____
22 Obermayer Rebman Maxwell and Hippel LLP
23 Class Counsel

24 Dated: _____
25 _____
26 PPG Industries, Inc.

27 Dated: _____
28 _____
Littler Mendelson, P.C.
Defense Counsel

EXHIBIT A

FLSA OPT-IN PLAINTIFFS				
<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>Individual Settlement Allocation</u>	<u>PAGA Allocation</u>	<u>Total</u>
ACOSTA	AGUSTIN	\$ 64,598.43	\$ 100.00	\$ 64,698.43
ALLEN	JOSHUA	\$ 9,918.23	\$ -	\$ 9,918.23
ANDRES	FREDERICK	\$ 27,418.57	\$ -	\$ 27,418.57
ARMSTRONG	PAUL	\$ 67,596.37	\$ 100.00	\$ 67,696.37
BARRAGAN	DANIEL	\$ 45,364.68	\$ -	\$ 45,364.68
BARTELS	JASON	\$ 36,763.01	\$ -	\$ 36,763.01
BLENCOWE	PAUL	\$ 8,811.65	\$ -	\$ 8,811.65
BLEVINS	JERRY	\$ 26,967.74	\$ -	\$ 26,967.74
BOTT	JAMES	\$ 27,418.57	\$ -	\$ 27,418.57
BREWSTER	SUSAN	\$ 64,598.43	\$ 100.00	\$ 64,698.43
CAHIGAL	ROBERT	\$ 67,596.37	\$ 100.00	\$ 67,696.37
CLOONAN	RICHARD	\$ 27,418.57	\$ -	\$ 27,418.57
COUCH	STANLEY	\$ 37,336.79	\$ -	\$ 37,336.79
DABBS	JED	\$ 25,000.49	\$ -	\$ 25,000.49
DE LA TORRE	EUGENIO	\$ 8,975.58	\$ -	\$ 8,975.58
DEL ANGEL	VICTOR	\$ 5,532.89	\$ -	\$ 5,532.89
DIEMER	KRISTINA	\$ 51,087.32	\$ -	\$ 51,087.32
DIOSO	LAWRENCE	\$ 9,713.30	\$ -	\$ 9,713.30
DOWNNS	DALE	\$ 10,000.19	\$ -	\$ 10,000.19
DRAVES	TIMOTHY	\$ 10,246.10	\$ -	\$ 10,246.10
ELERTSON	BRYAN	\$ 27,295.61	\$ -	\$ 27,295.61
FERRING	BARBARA	\$ 10,041.18	\$ -	\$ 10,041.18
FESTER	DAVID	\$ 11,188.74	\$ -	\$ 11,188.74
FISH	BLAINE	\$ 37,418.76	\$ -	\$ 37,418.76
FUENTES	FAUSTINO	\$ 10,123.15	\$ -	\$ 10,123.15
GARCIA	HECTOR	\$ 64,598.43	\$ 100.00	\$ 64,698.43
GATES	REBEKAH	\$ 27,131.68	\$ -	\$ 27,131.68
GAUSE	MELVIN	\$ 27,131.68	\$ -	\$ 27,131.68
GERDING	ROBERT	\$ 27,008.72	\$ -	\$ 27,008.72
GILBERT	MICHAEL	\$ 10,205.12	\$ -	\$ 10,205.12
GONZALEZ	JAIME	\$ 38,822.52	\$ 100.00	\$ 38,922.52
GOTZMANN	KERRY	\$ 27,131.68	\$ -	\$ 27,131.68
GREENBERG	DARREN	\$ 9,877.24	\$ -	\$ 9,877.24
GUNAKA	KENNETH	\$ 26,271.00	\$ -	\$ 26,271.00
HALASY	ROBERT	\$ 27,418.57	\$ -	\$ 27,418.57
HARRISON	WILLIAM	\$ 67,596.37	\$ 100.00	\$ 67,696.37
HICKMAN	CHRISTOPHER	\$ 10,205.12	\$ -	\$ 10,205.12
HOLLIDAY	BRIAN	\$ 38,525.34	\$ -	\$ 38,525.34
HUMPHRIES	ANTHONY	\$ 25,574.27	\$ -	\$ 25,574.27
JENISCH	GAIL	\$ 27,254.63	\$ -	\$ 27,254.63
JENKINS	RICKY	\$ 9,590.35	\$ -	\$ 9,590.35
KANNER	JEFF	\$ 67,596.37	\$ 100.00	\$ 67,696.37
KEATING	ERIK	\$ 7,254.24	\$ -	\$ 7,254.24
KISTING	JOHN	\$ 25,410.33	\$ -	\$ 25,410.33
KNOKE	MARK	\$ 26,967.74	\$ -	\$ 26,967.74
LEBRON	EDWIN	\$ 9,057.55	\$ -	\$ 9,057.55
LIESER	ERICH	\$ 27,131.68	\$ -	\$ 27,131.68
LOPEZ	VINCENT	\$ 45,364.68	\$ -	\$ 45,364.68
LOWE	MARCIA	\$ 23,033.24	\$ -	\$ 23,033.24
MATTHEWS	JON	\$ 25,574.27	\$ -	\$ 25,574.27
MC ADAMS	EARL	\$ 9,877.24	\$ -	\$ 9,877.24
MCCAFFREY	THOMAS	\$ 25,820.17	\$ -	\$ 25,820.17
McLEOD	JOHN	\$ 45,364.68	\$ -	\$ 45,364.68
MEECE	BRAD	\$ 25,533.28	\$ -	\$ 25,533.28
MOTLEY	LINWOOD STRATTON	\$ 9,590.35	\$ -	\$ 9,590.35
NELSON	JASON	\$ 27,295.61	\$ -	\$ 27,295.61
NELSON	MARTY	\$ 25,410.33	\$ -	\$ 25,410.33
NEWELL	MICHAEL	\$ 11,188.74	\$ -	\$ 11,188.74
PARKER	MIKE	\$ 25,410.33	\$ -	\$ 25,410.33
PASTORE	FRANK	\$ 9,303.46	\$ -	\$ 9,303.46
PETERSEN	ERIC	\$ 27,295.61	\$ -	\$ 27,295.61

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>Individual Settlement Allocation</u>	<u>PAGA Allocation</u>	<u>Total</u>
RAMM	CHRISTOPHER	\$ 10,123.15	\$ -	\$ 10,123.15
RIVERA	RAUL	\$ 27,131.68	\$ -	\$ 27,131.68
RIZZO	DAVID	\$ 10,000.19	\$ -	\$ 10,000.19
ROBINSON	RANDOLPH	\$ 8,155.90	\$ -	\$ 8,155.90
SALINAS	ALFREDO	\$ 26,844.79	\$ -	\$ 26,844.79
SCANIFFE	ROBERT	\$ 9,713.30	\$ -	\$ 9,713.30
SCHNEIDER	MICHAEL	\$ 27,131.68	\$ -	\$ 27,131.68
STEINBERG	JASON	\$ 25,000.49	\$ -	\$ 25,000.49
STOLL	BRIAN	\$ 26,475.93	\$ -	\$ 26,475.93
SULLIVAN	KEVIN	\$ 45,364.68	\$ -	\$ 45,364.68
TAKAGI	DEWEY	\$ 64,598.43	\$ 100.00	\$ 64,698.43
TALAMANTES	LUCIEANN	\$ 64,598.43	\$ 100.00	\$ 64,698.43
TORRES	DEREK	\$ 45,364.68	\$ -	\$ 45,364.68
WALTON	NATHANIEL	\$ 8,442.79	\$ -	\$ 8,442.79
WARRENDER	RORY	\$ 10,000.19	\$ -	\$ 10,000.19
WOJTYS	RANDALL	\$ 8,975.58	\$ -	\$ 8,975.58
WRIGHT	MILTON	\$ 37,418.76	\$ -	\$ 37,418.76

EXHIBIT B

CALIFORNIA RULE 23 CLASS				
<u>Last Name</u>	<u>First Name</u>	<u>Individual Settlement Allocation</u>	<u>PAGA Allocation</u>	<u>Total</u>
Allen	Glenn	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Aragon	Albert Jorge	\$ 14,737.10	\$ -	\$ 14,737.10
Armenta	Joel L.	\$ 5,345.83	\$ -	\$ 5,345.83
Bassard	Jocelyn Monique	\$ 34,820.10	\$ -	\$ 34,820.10
Bernal	Jorge	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Boothe	Brandon D	\$ 23,297.66	\$ -	\$ 23,297.66
Codoni	Steve D	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Delia	Matthew Stephen	\$ 48,967.07	\$ 100.00	\$ 49,067.07
DePaula	Mark	\$ 51,965.01	\$ 100.00	\$ 52,065.01
Diaz	Antonio	\$ 27,078.05	\$ 100.00	\$ 27,178.05
Ghent	Giovanni Martin	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Harris	Wendie M.	\$ 34,820.10	\$ -	\$ 34,820.10
Hull	Kurt A.	\$ 33,122.44	\$ -	\$ 33,122.44
Kelley	Jeffrey	\$ 11,992.01	\$ -	\$ 11,992.01
Kiley	Derek T	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Kim	Shawn	\$ 51,965.01	\$ 100.00	\$ 52,065.01
Langlo	Troy A	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Martin	Daniel	\$ 48,967.07	\$ 100.00	\$ 49,067.07
McKinney	Shawn	\$ 28,607.37	\$ -	\$ 28,607.37
Monroy	Francis J.	\$ 34,386.65	\$ -	\$ 34,386.65
Oliver	Frederick K	\$ 23,803.35	\$ -	\$ 23,803.35
Prater	Adam Charles	\$ 34,820.10	\$ -	\$ 34,820.10
Reynoso	Carlos A	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Smith	Derek Lee	\$ 51,965.01	\$ 100.00	\$ 52,065.01
Stewart	Daniel B	\$ 48,967.07	\$ 100.00	\$ 49,067.07
Turcotte	William C	\$ 22,647.49	\$ -	\$ 22,647.49
Van Hemert	Lisa R	\$ 27,078.05	\$ 100.00	\$ 27,178.05
Wilson	Gordon	\$ 13,617.37	\$ -	\$ 13,617.37

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LUCIEANN TALAMANTES, ROBERT
CAHIGAL, HECTOR GARCIA, DEWEY
TAKAGI, BRIAN HOLLIDAY, AND
TINA DIEMER on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

PPG Industries, Inc.,

Defendant.

Case No. 3:13-cv-04062-WHO

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

Before the Court is the Plaintiffs' Motion for Preliminary Approval of Class and Collective Action Settlement ("Motion") and the pertinent materials filed with that motion. For good cause shown, and as more fully explained below, the Motion is GRANTED. The Court ORDERS as follows:

1. **Preliminary Certification of the Settlement Classes.**

California Rule 23 Class. For the purposes of settlement only, the Court preliminarily finds that the proposed California Rule 23 Class, as defined in the Settlement Agreement between the Parties (the "Agreement"), meets the requirements of Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure. Accordingly, the Court certifies for settlement purposes only the following proposed California Rule 23 Class:

All individuals who are identified by Defendant as having worked as a Home Depot Business Development Representative for PPG Industries, Inc. and/or any subsidiary (including PPG Architectural Finishes, Inc.) and or any predecessor (including Akzo Nobel Paints LLC) in California during any workweek from September 3,

2009 through March 31, 2013, excluding, however, any member of the FLSA Class.

The California Rule 23 Class Members are identified by name in Exhibit B of the Agreement. Not later than seven (7) days after the date of this Order, Defendant will provide the Claims Administrator with an Excel chart listing the names and last known addresses of the California Rule 23 Class Members.

FLSA Class. For purposes of the Agreement, the “FLSA Class” is comprised of the Named Plaintiffs and those other individuals who filed (and did not withdraw) written consents to join this action pursuant to 29 U.S.C. § 216(b). The FLSA Class Members are identified by name in Exhibit A of the Agreement. Named Plaintiffs and Class Counsel represented that they were fully authorized to enter into the Agreement and to bind the FLSA Class Members to the terms and conditions of this Agreement.

2. **Nullification.** This Order will be null and void and of no force or effect, and this action will proceed as though a class had never been certified, if the Settlement Agreement is not finally approved by the Court or if the Settlement Agreement, after being finally approved by the Court, is invalidated on appeal or terminated pursuant to its own terms.

3. **Class Representatives.** With respect to the California Rule 23 Class, the Court grants preliminary approval to Named Plaintiffs Lucieann Talamantes, Robert Cahigal, Hector Garcia, Dewey Takagi, and Tina Diemer, to serve as the Class Representatives.

4. **Class Counsel.** The Court conditionally appoints as Class Counsel for the California Rule 23 Class Laura L. Ho, Byron Goldstein, William C. Jhaveri-Weeks, of the law firm of Goldstein, Borgen, Dardarian & Ho (300 Lakeside Drive, Suite 1000, Oakland, CA 94612) and Bruce Fox and Andrew Horowitz of the law firm of Obermayer Rebmann Maxwell and Hippel LLC (BNY Mellon Center 500 Grant Street Suite 5240 Pittsburgh, PA 15219).

5. **Preliminary Approval of the Agreement.** The proposed settlement set forth in the Agreement appears, upon preliminary review, to be fair, reasonable and adequate and is therefore preliminarily approved subject to further consideration thereof at the Final Approval Hearing, as provided in Paragraph 7 below. It is found that the Notice of the proposed Settlement should be given as provided in the Settlement Agreement and set forth in Paragraph 8 below.

6. **Claims Administrator.** KCC Class Action Services, LLC (the “Claims Administrator”), is approved as administrator of the claims process as set forth in the Settlement Agreement.

7. **Fairness Hearing.** Under Rule 23(e) of the Federal Rules of Civil Procedure, a Fairness Hearing will be held on _____, 2015 at _____ to consider final approval of the Agreement. The date and time of the Final Approval Hearing shall be set forth in the Notice, but the Final Approval Hearing shall be subject to adjournment by the Court without further notice to the Class Members other than that which may be posted by the Court.

8. **Notice to the California Rule 23 Class.** The Notice of Proposed Settlement of Class Action Lawsuit and Fairness Hearing (the “Notice”) attached as Exhibit E to the Agreement is approved. The Court orders that the Claims Administrator mail the Notice Materials as set forth in the Agreement to the members of the California Rule 23 Class who are not already a Named or Opt-in Plaintiff as listed on Exhibit A of the Agreement.

9. **Exclusion from the Settlement.** Any member of the California Rule 23 Class who is not already a Named or Opt-in Plaintiff as listed on Exhibit A of the Agreement, who wishes to not participate in the settlement may request exclusion from the class by submitting a signed request for exclusion to the Claims Administrator. To be effective, such request for

exclusion must include the individual's name and an unequivocal statement that the individual requests to be excluded from the class, and it must be post-marked within thirty (30) days following the date of the initial mailing of the Rule 23 Notice Packet.

10. **Objections.** Any California Rule 23 Class Members, who are not already a Named or Opt-in Plaintiff as listed on Exhibit A, who wish to present objections to the proposed settlement at the Fairness Hearing must do so first in writing. To be considered, such objections must (a) clearly identify the case name and number (*Talamantes et al. v. PPG Industries, Inc.*, Case Number 3:13-cv-04062-WHO), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, San Francisco, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before (30) days after the initial mailing of the Notice by the Claims Administrator.

An objector who timely submits a written objection may appear at the Fairness Hearing either in person or through counsel hired by the objector. An objector may withdraw his or her objections at any time. No California Rule 23 Class Member may appear at the Fairness Hearing or appeal from the Final Approval Order unless he or she has filed a timely objection that complies with the procedures provided herein. Any California Rule 23 Class Member who requests exclusion from the class may not submit objections to the settlement. The Parties may file with the Court written responses to any filed objections no later than fourteen (14) calendar days before the Fairness Hearing.

11. At least 14 days before the deadline to object to or opt out of the Settlement, Class Counsel shall file their motion for attorneys' fees, costs, and class representative enhancements.

12. **Effect of the Agreement.** All Named and Opt-in Plaintiffs shall be bound by the terms and conditions of the Settlement Agreement (if the Settlement Agreement is finally approved by the Court). All members of the California Rule 23 Class who do not timely and properly exclude themselves from the class will be bound conclusively by all of the terms of the Settlement Agreement, if finally approved, and by any judgment entered upon final approval. Class Counsel will file returned exclusion statements with the Court as set forth in the Settlement Agreement.

13. **Voiding the Agreement.** Pursuant to the Settlement Agreement, if 20% or more of the members of the California Rule 23 Class elect to be excluded from the California Rule 23 Class, Defendant will have the right, in its sole discretion, to void this Settlement Agreement by filing with the Court a notice as set forth in the Settlement Agreement. If Defendant files a timely notice, then this Settlement Agreement becomes null and void and this action will resume as it existed immediately prior to the execution of the Settlement Agreement.

14. **Order for Settlement Purposes.** The findings and rulings in this Order are made for the purposes of settlement only and may not be cited or otherwise used to support the certification of any contested class or subclass in this action or any other action.

15. **Stay.** All proceedings in this action, other than such proceedings as may be necessary to carry out the terms and conditions of the Agreement, are stayed and suspended until further order of the Court.

16. **Use of Agreement and Ancillary Items.** Neither the Agreement (whether or not it is finally approved), nor any ancillary documents, actions, statements, or filings in furtherance of settlement (including matters associated with the mediation) will be admissible or offered into evidence in this action or any related or similar action for the purposes of establishing,

supporting, or defending against any claims that were raised or could have been raised in this action or are similar to such claims.

So ordered.

Date: _____, 2015
San Francisco, California

Hon. William H. Orrick
United States District Judge

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EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LUCIEANN TALAMANTES, ROBERT
CAHIGAL, HECTOR GARCIA, DEWEY
TAKAGI, BRIAN HOLLIDAY, AND
TINA DIEMER on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

PPG Industries, Inc.,

Defendant.

Case No. 3:13-cv-04062-WHO

**[PROPOSED] ORDER APPROVING
SETTLEMENT OF CLAIMS OF FLSA
CLASS MEMBERS AND CALIFORNIA
RULE 23 CLASS MEMBERS**

Before the Court is the Plaintiffs' Motion for an Order (1) granting final approval to the settlement of FLSA claims as set forth in the Settlement Agreement ("Agreement") between the parties in the above-captioned matter; (2) granting final approval to the California Rule 23 class action settlement described in the Agreement; (3) granting approval of payment to the claims administrator; and (4) dismissing the Civil Action with prejudice in accordance with the terms of the Agreement. Also before the Court is Plaintiffs' unopposed motion for an Order approving plaintiffs' application for attorney's fees and costs and approving plaintiffs' application for enhancement payments as provided for in the Agreement.

The Court preliminarily approved the Agreement, a copy of which was attached to the Motion, in this action by order entered on _____ (the "Preliminary Approval Order").

On _____, the Court conducted a hearing (the "Fairness Hearing") to consider final approval of the Agreement. The Court has considered all matters submitted to it at the Fairness Hearing and otherwise, the pleadings on file, the applicable law, and the record.

For good cause shown, and as more fully explained below, the Motions are GRANTED. The Court ORDERS as follows:

1. **Final Certification of the Settlement Classes.** The FLSA Class is comprised of the Named Plaintiffs and those other individuals who filed (and did not withdraw) written consents to join this action pursuant to 29 U.S.C. § 216(b). The members of the FLSA Class are identified in the Settlement Agreement in Exhibit A. The California Rule 23 Class is comprised of all individuals who were identified by Defendant as having worked as a Home Depot Business Development Representative for PPG Industries, Inc. and/or any subsidiary (including PPG Architectural Finishes, Inc.) and/or any predecessor (including Akzo Nobel Paints LLC) in California during any workweek from September 3, 2009 through March 31, 2013, excluding, however, the members of the FLSA Class. The members of the California Rule 23 Class are identified in the Settlement Agreement in Exhibit B. The Court finds that the California Rule 23 Class, as defined in the Agreement, meets the requirements of Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure. Accordingly, for the purposes of settlement, the Court certifies the California Rule 23 Class.

2. **Class Representatives.** For purposes of settlement, the Court appoints as Class Representatives for the California Rule 23 Class Plaintiffs, Lucieann Talamantes, Robert Cahigal, Hector Garcia, Dewey Takagi, and Tina Diemer.

3. **Class Counsel.** For purposes of settlement, the Court appoints as Class Counsel for the California Rule 23 Class Laura L. Ho, Byron Goldstein, William C. Jhaveri-Weeks, of the law firm of Goldstein, Borgen, Dardarian & Ho (300 Lakeside Drive, Suite 1000, Oakland, CA 94612) and Bruce Fox and Andrew Horowitz of the law firm of Obermayer Rebmann Maxwell and Hippel LLP (BNY Mellon Center 500 Grant Street Suite 5240 Pittsburgh, PA 15219).

4. **Approval of the Agreement.** The Court approves the Agreement and finds that it is a reasonable compromise of the claims of the Plaintiffs, the FLSA Class and the California Rule 23 Class, reached by the Parties after extensive discovery and intensive arms-length negotiations with the assistance of an experienced mediator.

The Agreement is fair, just, reasonable and adequate to, and in the best interest of, the FLSA Class and California Rule 23 Class. It achieves a definite and certain result for the benefit

of the FLSA Class and California Rule 23 Class that is preferable to continuing litigation in which the FLSA Class and California Rule 23 Class would necessarily confront substantial risk, uncertainty, delay, and cost. The Court also finds that the settlement terms negotiated by the parties and described in their Agreement are a fair and reasonable resolution of a *bona fide* dispute between the Plaintiffs, FLSA Class Members and California Rule 23 Class Members, and the Defendant.

This Order constitutes final approval of the Agreement. The Agreement is binding on the parties to it and on all members of the FLSA Class and California Rule 23 Class in accordance with the terms of the Agreement, excepting only those individuals, if any, who effectively excluded themselves from the California Rule 23 Class in accordance with the terms of the Agreement.

5. **Notice to the California Rule 23 Class.** The Court determines that the Notice Materials were given as required by the Preliminary Approval Order. The Court finds that the notice given of the proposed settlement was the best practical notice under the circumstances and provided all members of the California Rule 23 Class with fair and adequate notice of the terms of the settlement, the Fairness Hearing, and the opportunity to object to the settlement and/or exclude themselves from the settlement. The Court finds the Notice Materials satisfied the requirements of Rule 23 of the Federal Rules of Civil Procedure.

6. **Attorneys' Fees and Litigation Expenses.** The Court approves Class Counsel's requested fees award of \$1,666,667. The Court finds this fee award is justified. The Court finds that the Expenses Payment requested in plaintiffs' unopposed motion is reasonable and that Class Counsel shall be awarded the requested amount for litigation expenses actually incurred in the prosecution of this litigation. The Claims Administrator shall be awarded up to \$30,000 for its reasonable fees and expenses incurred in the administration of the settlement.

7. **Enhancement Payments.** The Enhancement Payments to the Named Plaintiffs as set forth in the Agreement are approved for their substantial services for the benefit of the settlement classes.

8. **Administering the Settlement of Claims.** The Parties shall administer the settlement as set forth in the Agreement.

9. **Release of Claims.** As of the date this judgment becomes final (meaning that the time for appeal has expired with no appeal taken, all appeals are resolved and none are left pending, or this judgment is affirmed in all material respects after completion of the appellate process), the Named Plaintiffs, FLSA Class Members and California Rule 23 Class Members (excepting only _____, who timely requested exclusion in accordance with the Preliminary Approval Order), are forever barred from bringing or presenting any action or proceeding against any Released Party that involves or asserts any of the Released Claims (as those terms are defined in the Agreement).

10. **Dismissal with Prejudice.** All claims in this action are DISMISSED WITH PREJUDICE and, except as provided herein, without costs against Defendant.

11. **Dispute Resolution.** Without affecting the finality of this judgment, the Court reserves jurisdiction over the implementation, administration, and enforcement of this judgment and the Agreement and all matters ancillary to the same.

12. **Non-Admission.** This Order and the Agreement are not evidence of, or an admission or concession on the part of, the Released Parties with respect to any claim of any fault, liability, wrongdoing, or damages whatsoever.

13. **Order for Settlement Purposes.** The findings and rulings in this Order are made for the purposes of settlement only and may not be cited or otherwise used to support the certification of any contested class or subclass in any other action.

14. **Use of Agreement and Ancillary Terms.** Neither the Agreement nor any ancillary documents, actions, statements, or filings in furtherance of settlement (including matters associated with the mediation) will be admissible or offered into evidence in any action related or similar to this one for the purposes of establishing, supporting or defending against any claims that were raised or could have been raised in this action or are similar to such claims.

So ordered.

Date: _____, 2015
San Francisco, California

Hon. William H. Orrick
United States District Judge

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EXHIBIT E

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

LUCIEANN TALAMANTES, ROBERT
CAHIGAL, HECTOR GARCIA, DEWEY
TAKAGI, BRIAN HOLLIDAY, AND
TINA DIEMER on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

PPG Industries, Inc.,

Defendant.

Case No. 3:13-cv-04062-WHO

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT AND
FAIRNESS HEARING**

TO: [INSERT CLASS MEMBER NAME]

YOU ARE COVERED BY THE SETTLEMENT OF THE ABOVE CLASS ACTION LAWSUIT.

UNDER THE SETTLEMENT, YOU ARE ELIGIBLE TO RECEIVE A SETTLEMENT ALLOCATION CURRENTLY CALCULATED AT \$_____, SUBJECT TO WITHHOLDINGS AS SET FORTH IN THIS NOTICE.

READ THIS DOCUMENT CAREFULLY. IT SUMMARIZES THE TERMS OF THE SETTLEMENT AND EXPLAINS YOUR RIGHTS UNDER THE SETTLEMENT.

A proposed settlement (the "Settlement") has been reached in the above-referenced class/collective action lawsuit currently pending in the United States District Court for the Northern District of California. Because your rights will be affected by this Settlement, it is extremely important that you read this Notice carefully. As explained in more detail below, you will be included in the settlement unless you affirmatively request to be excluded from the settlement by submitting a written notice to the claims administrator by [INSERT DATE 30 DAYS FROM MAILING] (as evidenced by the postmark).

1. Why did I get this notice?

The United States District Court for the Northern District of California (“Court”) presides over this Lawsuit, which was filed with the Court in September 2013 by Named Plaintiffs Lucieann Talamantes, Robert Cahigal, Hector Garcia, Dewey Takagi, Brian Holliday, and Tina Diemer against Defendant PPG Industries, Inc. (“PPG” or “Defendant”).

The Lawsuit concerns the allegation that Business Development Representatives (BDRs) were misclassified as “exempt” from the overtime wage requirements and certain other provisions of the Fair Labor Standards Act (FLSA) and the California Labor Code (CLC) prior to March 31, 2013. The Plaintiffs brought their claims on behalf of an FLSA Class comprised of individuals who filed written consents to join this action pursuant to 29 U.S.C. § 216(b) (and who did not withdraw the consents), and on behalf of a California Rule 23 Class comprised of all individuals who were identified by Defendant as having worked as a Home Depot BDR for PPG Industries, Inc. and/or any subsidiary (including PPG Architectural Finishes, Inc.) and/or any predecessor (including Akzo Nobel Paints LLC) in California during any workweek from September 3, 2009 through March 31, 2013. The proposed settlement, however, treats individuals who previously joined the lawsuit as FLSA Class members even if they are technically also California Rule 32 class members.

The Lawsuit has been settled. Based on PPG’s records, you are a member of the California Rule 23 Class and are therefore eligible to participate in the settlement of the Lawsuit. **This Notice informs you of the steps you must take if you wish to exclude yourself from the settlement or object to the settlement.**

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at www.gbdhlegal.com, or by contacting class counsel at _____, or by accessing the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

2. What is the lawsuit about?

In this Lawsuit, Plaintiffs claim that PPG misclassified BDRs as “exempt” from certain provisions of the Fair Labor Standards Act (FLSA) and the California Labor Code (CLC) prior to April 1, 2013. Plaintiffs claim that PPG failed to pay BDRs for all hours worked, including statutory overtime premiums, and that PPG failed to provide, authorize and/or permit all statutory meal periods and rest breaks, failed to provide accurate wage statements and failed to timely pay wages to BDRs in California.

PPG denies Plaintiffs' legal claims and contends that it complied with the FLSA and the CLC.

The Court has not decided who would win the Lawsuit. By reaching a settlement, Plaintiffs and PPG reached an amicable resolution of their dispute, and all parties avoided the costs and risks associated with further litigation.

3. What does the settlement provide?

Defendant agreed to pay \$5,000,000 ("Maximum Gross Settlement Amount") to settle the Lawsuit. That amount will be used to pay: a) the claims of Class Members; (b) Class Counsel's fees and litigation costs not to exceed \$1,766,667; (c) enhancement payments to the Named Plaintiffs not to exceed \$30,000; (d) payment to the State of California for civil penalties in the amount of \$7,500; and (e) the costs of administering the Settlement and claims process in an amount not to exceed \$30,000.

Class Counsel will ask the Court to award attorneys' fees in an amount up to 1/3 of the Maximum Gross Settlement Amount (\$1,666,667), plus a reasonable amount (not to exceed \$100,000) for litigation costs actually incurred in prosecuting the action on behalf of the Class. In addition, Class Counsel will ask the Court to authorize enhancement payments to the six named plaintiffs in the amount of \$5,000 each (\$30,000 in total) in recognition of their efforts to obtain this settlement on behalf of the Class Members. The actual amounts awarded as attorneys' fees, litigation costs, and enhancement payments will be determined and approved by the Court.

After deducting from the Maximum Gross Settlement Amount for attorneys' fees, litigation costs, enhancement awards, and the costs of administering the Settlement, the remaining amount ("Settlement Payment Allocation") will be used to make settlement payments to each qualifying Class Member.

Your preliminary Individual Settlement Allocation is set forth on the first page of this notice. The allocation will be subject to withholding in accordance with the terms of the Settlement Agreement. You should consult with your tax professional concerning the proper tax payment for this payment.

Settlement allocations are based on the number of workweeks that each California Rule 23 Class Member and FLSA Class Member worked in the BDR position during the relevant period and the type of claims each group has brought in the case. Three different categories of BDRs are eligible to recover in this Settlement: California Rule 23 Class Members (*i.e.*, the recipients of this Notice), Non-California FLSA Class Members, and California FLSA Class Members. Individuals in these three groups all have claims for unpaid overtime. All FLSA Class Members also have claims for liquidated damages. All individuals who worked in California also may have claims for missed meal and rest breaks, wage statement violations, and (if they are former employees) delayed payment of wages. The Non-California FLSA Class Members do not possess these California law claims. This methodology allocates the settlement funds as fairly as possible to reflect the value of each claim. The methodology has been presented to the Court as part of the Settlement approval process. If you have questions about the calculation, you may

contact Class Counsel at the phone number listed in Section 7.

4. Why is there a settlement?

The settlement is a compromise. The settlement allows the parties to avoid the costs and risks of further litigation and appeals, and it provides money to Class Members without significant delay. In reaching a settlement, Defendant denies that it violated any laws and states that it entered into the settlement agreement in order to amicably resolve this dispute on mutually-agreeable terms.

5. What are my rights?

- A. Participate in the Settlement and Receive a Payment.** You will receive money from the Settlement unless you request to be excluded. You do not have to take any affirmative step to choose this option.

If you do nothing, you will receive your Settlement Payment after the Court enters Final Approval of the Settlement, and any appeals have been resolved.

Defendant will not retaliate or take any adverse action against a Class Member for receiving a payment under the Settlement.

Upon approval of the settlement by the Court and that approval becoming final, you will receive the Settlement Payment and will be deemed to have released any and all claims that were asserted in the complaint or that could have been asserted in the action based upon the facts alleged in the complaint (including but not limited to claims arising under the California Labor Code), including but not limited to all claims, demands, and causes of action for unpaid regular and/or overtime wages, penalties, liquidated damages, costs, attorney's fees, and any other relief (as defined in the Settlement Agreement) under California law, arising at any time up until September 15, 2015. With respect to your FLSA claims only, you will release those claims only if you sign your check, as the back of the check will indicate.

- B. Exclude Yourself from the Settlement.** If you do not wish to be a part of the Settlement, you must exclude yourself from the Settlement by preparing a letter to the Claims Administrator stating that you wish to be excluded from the settlement in *Talamantes et al. v. PPG Industries, Inc.* The letter must include your full name, your address and telephone number, and you must personally sign the letter.

If you exclude yourself, you will not receive a Settlement Payment and you will not be bound by the settlement.

To be valid, the exclusion request must be post-marked no later than [30 days - INSERT DATE].

Class Counsel will ensure that all valid and timely exclusion letters are filed with the

Court. You cannot exclude yourself by phone or by e-mail.

Importantly, if you ask to be excluded from the settlement, you will not receive any settlement payment, and you cannot object to the settlement. If you exclude yourself, you will not be legally bound by the settlement or the release of legal claims against Defendant.

- C. Participate in the Settlement But Object to its Terms.** If you choose to participate in the settlement, you may object to its terms if you did not previously file a consent to join this Lawsuit. The Court will consider your objections in deciding whether to approve the settlement. If you choose to exclude yourself from the settlement altogether (option B, above), you cannot object to its terms.

If you choose to file an objection, you can ask the Court to deny approval of the settlement, but you cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

If you choose to object to the proposed settlement, you must do so in writing. If, and only if, you file an objection in writing, then you may also appear before the Court at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*Talamantes et al. v. PPG Industries, Inc.*, Case Number 3:13-cv-04062-WHO), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before (30) days after the initial mailing of the Notice by the Claims Administrator.

If you do not make a timely objection, you will be deemed to have waived any and all objections to the settlement and will be foreclosed from making any objections (whether by appeal or otherwise) to the settlement.

6. What do I give up by receiving a settlement payment?
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As explained in Section 5, you have the option to request exclusion from this lawsuit. If you do not request exclusion from this lawsuit by following the procedure described in Section 5, you will receive the Settlement Payment described above, but you will also be bound by the Settlement and the Release as set forth in the Settlement Agreement and Final Approval Orders.

If you currently have a pending legal claim or lawsuit against PPG Industries, Inc., or if you anticipate filing a future legal claim or lawsuit based on wage-related events that already have taken place, you should promptly consult with your attorney about this settlement and the impact

of this release on your current or anticipated legal claims or lawsuits.

7. Do I have a lawyer in this case?

The Court has designated the following lawyers to serve as “Class Counsel” and to represent the interests of Plaintiffs and the Class Members:

Laura L. Ho
Byron Goldstein
William C. Jhaveri-Weeks
Goldstein, Borgen, Dardarian & Ho
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Phone: 510-763-9800
Website: www.gbdhlegal.com

Bruce Fox
Andrew Horowitz
**Obermayer Rebmann Maxwell and
Hippel LLP**
BNY Mellon Center
500 Grant Street, Suite 5240
Pittsburgh, PA 15219
Phone: 412-566-1500
Website: www.obermayer.com

However, nothing prohibits you from speaking with other lawyers about the Lawsuit or this Notice.

The above lawyers represent your legal interests and will answer your questions in strict confidence. If you call, please identify yourself as a “Class Member” in the “PPG Industries, Inc.” lawsuit and ask to speak with one of the above attorneys.

8. How do the Plaintiff’s attorneys get paid?

The lawyers identified in Section 7 above have worked on the lawsuit without receiving any payments for their time or out-of-pocket expenses. Under the settlement, these lawyers will ask the Court for attorneys’ fees of \$1,666,667 plus out-of-pocket expenses and settlement administration costs totaling \$100,000. The requested attorneys’ fees equal 1/3 of the Maximum Gross Settlement Amount. The actual amount awarded will be determined by the Court.

You will not pay any additional lawyer’s fees or expenses out of your individual share of the settlement proceeds.

9. When and where will the Court decide whether to approve the settlement?

The Court will hold a hearing to decide whether to approve the settlement. You are not required or expected to attend that hearing. However, you are welcome to attend.

At the hearing, the Court will consider whether the settlement (including the requested attorneys’ fees) is fair and reasonable. The Court will consider all written objections to the settlement and will hear from any Class Members who have filed written objections to the settlement.

The Court will hold the hearing on [*insert date and time*] at the United States District Court for

the Northern District of California located at Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102. This date, however, shall be subject to adjournment by the Court without further notice other than that which may be posted by the Court. If you plan to attend, please confirm the date with Class Counsel listed in Section 7 above.

10. How do I obtain more information?

This Notice summarizes the most important aspects of the settlement. You can get a copy of the entire settlement agreement as well as the underlying Court pleadings by calling the attorneys listed in Section 7 above or the Claim Administrator identified below:

KCC Class Action Services, LLC
Address
Phone
Website

11. What if my name or address changes?

It is your responsibility to inform the Claims Administrator of your correct address. Please mail any change of address information to *Talamantes et al. v. PPG Industries, Inc.*, Settlement Administrator, c/o [Claims Administrator], [INSERT ADDRESS] or call [INSERT NUMBER].

OTHER THAN TO FILE AN OBJECTION,
PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

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