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

**AUG 12 2025**

BY   
**VALERIE URUENA, DEPUTY**

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

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

*Plaintiff,*

v.

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

*Defendants.*

Case No.: CIVSB2130963

**CLASS ACTION**

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

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

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

**PRELIMINARY APPROVAL HEARING**

Date: August 12, 2025  
Time: 8:30 a.m.  
Dept: S26

Complaint filed: October 27, 2021  
Trial date: Not set

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 14. The Court orders the following Implementation Schedule:

19		
20	Defendants to provide Class List to the	15 days after notice of entry of the Court's
21	Settlement Administrator	order granting Motion for Preliminary
22		Approval
23	Settlement Administrator to mail the Notice	14 days after receipt of the Class List from
24	Packets	the Defendant
25	Response Deadline	45 days after Notice is mailed out by the
26		Settlement Administrator
27	Deadline to Provide Written Objections, if	45 days after Notice is mailed out by the
28		

