

**SAN BERNARDINO COUNTY SUPERIOR COURT**

**If you worked for Shaw Industries, Inc. or Shaw Industries Group, Inc. (“Shaw”) in California as a non-exempt employee at any time between December 3, 2014 through June 9, 2021 a class action settlement will affect your rights. You may be entitled to a payment under this settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- A former employee, Randolph Fitch, filed a proposed class action lawsuit against Shaw. The lawsuit alleges that Shaw failed to provide employees with lawful meal and rest periods, failed to pay employees all wages owed, failed to reimburse for business expenses, failed to provide lawful paychecks to employees, and failed to pay all wages due at termination of employment. The lawsuit also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). Shaw denies all alleged violations and denies liability. The Court has not made a ruling on the merits of the case. The Parties have agreed to settle the claims set forth in the lawsuit.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING</b>	Get a settlement payment and give up any rights to sue for the Released Claims (defined below). <b><u>If you are still employed by Shaw and choose to receive a settlement payment, this will not affect your employment.</u></b>
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Shaw about the legal claims and statutory period alleged in this case.
<b>OBJECT</b>	Write to the Court about why you don’t agree with the settlement.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court still has to decide whether to approve of the settlement. Payments will be made if the Court approves the settlement. Please be patient.

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## 1. *Why Have I Received this Notice?*

Shaw's records indicate that you were employed as a non-exempt employee in California by Shaw at sometime between December 3, 2014 through June 9, 2021. This period of time is referred to as the "Class Period." If you worked for Shaw in California during the "Class Period," you may be entitled to money under this Settlement. This Notice provides you with basic information about the case and advises you of your options with regard to the Settlement.

## 2. *What is this Case About?*

The class action lawsuit is called *Randolph Fitch v. Shaw Industries, Inc.; Shaw Industries Group, Inc.* and is pending in the San Bernardino County Superior Court, Case No. CIVSB2024674. It was commenced by a former employee of Shaw named Randolph Fitch. Mr. Fitch is what is referred to as the "Plaintiff" or "Class Representative" in this case. Mr. Fitch alleged that Shaw failed to provide employees with lawful meal and rest periods, failed to pay employees all wages owed, failed to reimburse employees for all business expenses, failed to provide employees with lawful paycheck stubs, and failed to pay employees who no longer work for Shaw all wages owed at the termination of his or her employment.

Shaw strongly denies liability for all of Plaintiff's claims, and contends that it fully complied with California law during the Class Period.

The Court has not decided whether Plaintiff or Shaw is correct. Plaintiff would still have had to successfully certify the class and prove his claims at trial on a class wide basis. However, the Parties have concluded that it is in their respective best interests and the interests of the Class Members to settle this lawsuit on the terms summarized in this Notice.

## 3. *How Does this Class Action Settlement Work?*

Plaintiff and his attorneys believe the settlement is fair, adequate, and reasonable. The San Bernardino County Superior Court has preliminarily reviewed the terms of the settlement and determined the settlement is fair, adequate, and reasonable. On June 9, 2021, the Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on September 15, 2021 at 10:00 a.m., in Department S26 before Judge David S. Cohn, located at 247 W 3rd Street, San Bernardino, CA 92415. The date of the Final Fairness Hearing may change without further notice to the Class. You are advised to check the Court's website (instructions on accessing this site are provided in Section 15 of this Notice) to confirm that the date has not been changed.

## 4. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiff and the Class ("Class Counsel")	Attorneys for Shaw
<p><b>MARA LAW FIRM, PC</b> David Mara dmara@maralawfirm.com Jill Vecchi jvecchi@maralawfirm.com 2650 Camino Del Rio North, Suite 205 San Diego, CA 92108 Telephone: (619) 234-2833 Facsimile: (619) 234-4048</p>	<p><b>SHEPPARD, MULLIN, RICHTER &amp; HAMPTON LLP</b> Tracey A. Kennedy Tyler Johnson Michaela Goldstein 333 South Hope Street, 43rd Floor Los Angeles, California 90071-1422 Telephone: (213) 620-1780 Facsimile: (213) 620-1398</p>

The Court has appointed Mara Law Firm, PC to represent you and all other Class Members simultaneously in this Settlement. You do not need to hire your own attorney because Mara Law Firm, PC, is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

**5. How do I Participate in the Settlement?**

If you do nothing, you will automatically be included as a participant in this Settlement and will not have to take any further action to receive your settlement payment. By participating in the Settlement, you will be bound by the Release. It is your responsibility to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or a settlement payment.

***Important Note: Shaw will not retaliate against you in any way for either participating or not participating in this Settlement.***

<b>HOW TO GET YOUR MONEY IF YOU ARE A CLASS MEMBER:</b>	If you do nothing, you <b><i>will</i></b> receive money and <b><i>will</i></b> be bound by the release of claims stated in this notice.
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**6. How Do I Request to be Excluded from the Settlement?**

If you request to be excluded from the settlement, you ***will not*** receive a settlement payment. This is the only option that allows you to ever be a part of any other lawsuit against Shaw about the legal claims and statutory period alleged in this case. By timely opting out, you will no longer be a part of the Settlement.

<b>HOW TO REQUEST TO BE EXCLUDED FROM THE SETTLEMENT:</b>	
<b>How can I request to be excluded from the settlement?</b>	You can request to be excluded from the settlement by mailing the Settlement Administrator a written request for exclusion.
<b>Is there a deadline to request to be excluded?</b>	If you send a written request to the Settlement Administrator, you must postmark your request by August 20, 2021.
<b>What information do I need to provide?</b>	Your request for exclusion must include: (1) your name, address, telephone number, and the last four digits of your social security number or employee identification number; (2) your intention to exclude yourself from the settlement ( <i>e.g.</i> , “I want to exclude myself from this settlement. I also understand that I retain all rights to sue Shaw, for the claims asserted in this lawsuit.”); and (3) the request for exclusion must be signed by you or your lawful representative.

**7. How Do I Object to the Settlement?**

You can ask the Court to deny approval by filing an objection. 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.

## HOW TO OBJECT TO THE SETTLEMENT:

<b>How can I object to the settlement?</b>	You can objection to the settlement by mailing the Settlement Administrator a written objection.
<b>Is there a deadline to request to be excluded?</b>	If you send a written objection to the Settlement Administrator, you must postmark your request by August 20, 2021.
<b>What information do I need to provide?</b>	Your objection must include: (a) your full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval hearing.

Objectors who want to appear at the Final Fairness/Approval Hearing must state the intention to do so at the time of submitting the written objection(s).

Class Members who fail to file timely objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether an appeal or otherwise) to the settlement, unless otherwise ordered by the Court. The Court may excuse this requirement upon a showing of good cause. The Court will only require substantial compliance with the requirements for submitting an objection.

If the Court rejects the objection, the objector will receive a settlement payment and will be bound by the terms of the settlement and will release claims as defined in Section 8 of this notice and in the settlement agreement.

### **8. *How Does This Settlement Affect Employees’ Rights?***

If the proposed settlement is approved by the Court, a final judgment will be entered by the Court. All Class Members who do not opt out of the settlement will be bound by the Court’s final judgment and will release Shaw, and the other Released Parties<sup>1</sup> from the released claims. The claims released under the settlement are: any and all applicable California wage and hour claims, rights, demands, liabilities and causes of action that were alleged or could have been alleged based upon the factual allegations in the complaint, whether known or unknown, including without limitation statutory, constitutional, contractual or common law claims for meal and rest break violations, unpaid minimum wage, unpaid overtime, reimbursement of business expenses, wage statement penalties, waiting time penalties, damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, equitable relief, or other relief under California law, based on the following categories of allegations: (a) failure to pay wages, (b) failure to provide meal and rest breaks, (c) failure to provide accurate wage statements, (d) failure to reimburse business expenses, (e) failure to timely pay all wages, (f) violations of the Private Attorneys’ General Act, (g) violations of the Unfair Competition Law, and (h) any and all other wage and hour violations. The Released Claims shall be released for the Class Period. The release shall be for the period of time between December 3, 2014 through June 9, 2021.

If you would like to see the settlement documents or complaint on file, you can check <http://www.phoenixclassaction.com/fitch-v-shaw/>, the Court’s website, or contact Class Counsel. Directions for accessing the Court’s website are outlined in Section 15 of this notice. Class Counsel’s information is outlined in Section 4 of this notice.

<sup>1</sup> “Released Parties” means Shaw and their former and present parents, subsidiaries and affiliated corporations and their officers, directors, employees, partners, shareholders and agents, and any other successors, assigns, or legal representatives.

## **9. *How Much is the Settlement?***

The total maximum amount that Shaw is required to pay under this settlement is \$2,495,000. This amount is referred to as the “Gross Settlement Amount.” The Gross Settlement Amount includes the following amounts: (1) approximately \$1,521,750 for disbursement to Class Members who do not request to be excluded from the settlement; (2) \$5,000 to Plaintiff Randolph Fitch for his efforts in bringing this action; (3) costs to administer the settlement – meaning costs associated with mailing this notice to employees and costs associated with sending out settlement checks – to the Settlement Administrator, Phoenix Settlement Administrators, which will not to exceed \$30,000; (3) payment of \$75,000 to the Labor and Workforce Development Agency pursuant to the Private Attorneys’ General Act of 2004; and (4) payment to Class Counsel in an amount not to exceed \$833,250 (33 1/3% of the Gross Settlement Amount) in attorneys’ fees for investigating the facts of the case, litigating the case, and negotiating the settlement, and an amount not to exceed \$30,000 for actual costs spent litigating this case. All of these payments are subject to Court approval.

The Court will not approve any of these requests until the Final Fairness Hearing. If the any of the amounts awarded are less than the amounts requested, the difference shall become part of the amount available for distribution to employees who do not request to be excluded from the settlement.

## **10. *How Much Can I Expect to Receive from the Settlement?***

Each employee who does not request to be excluded from the settlement will be provisionally assigned an award amount based on his or her tenure as part of the Class. To arrive at these figures, the Net Settlement Amount will be divided by the total number of weeks worked by all Class Members to arrive at a dollar value per week worked. Each Class Member’s provisional award will be equivalent to the number of weeks he or she worked as a non-exempt employee during the Class Period multiplied by the calculated amount to be paid per week worked. The number of workweeks for each Class Member will be determined by adding all the calendar days within the inclusive dates of employment and dividing that number by seven. Any partial workweek will be expressed as a percentage of a full workweek. Therefore, your settlement payment ties directly to the number of workweeks you worked for Shaw between December 3, 2014 through June 9, 2021.

Although your exact settlement share cannot be precisely calculated until employees have had the opportunity to request to be excluded from the settlement, based upon the calculation formula above, your approximate share of the settlement is: \$ \_\_\_\_\_ (based on Shaw’s data which shows you worked \_\_\_\_ of workweeks between December 3, 2014 through June 9, 2021).

## **11. *Will Taxes be Taken Out of My Settlement Share?***

Yes, forty percent (40%) of each settlement payment is intended to settle employees’ claims for unpaid wages. This portion of your settlement share will be reduced by applicable payroll tax withholdings and deductions. Shaw will pay the employer’s share of legally required payroll taxes separately and outside of the settlement. The Settlement Administrator will issue you an IRS Form W-2 with respect to this portion of your settlement share.

Sixty percent (60%) of each settlement payment is intended to settle each employees’ claims for interest and penalties. This portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue you an IRS Form 1099 with respect to this portion of your settlement share.

## **12. *When Can I Expect to Receive Money from the Settlement?***

If you do not request to be excluded from the settlement, you should receive your settlement check approximately three months after the settlement becomes final. The settlement becomes final when the Judgment of the Court granting final approval of the settlement is final and no longer subject to appeal, if there are objections, or, if there are no objections, thirty (30) days after the Court grants final approval. As such, if there are no objections to the settlement, you should receive your settlement check approximately three months after the date of the Final Fairness Hearing, listed in Section 3 of this notice.

**Please note that you must cash or deposit your settlement check within 180 calendar days after the check is mailed to you.** If you have not cashed or redeemed your check within 90 days after it was mailed, the Settlement Administrator will send you a reminder postcard indicating that unless the check is redeemed or deposited in the next 90 days, it will expire and become non-negotiable. If your check was lost or misplaced, please contact the Settlement Administrator. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, they will be deemed void and of no further force and effect. This means that you will not be able to cash or redeem your settlement check 180 days after its issuance. The funds from settlement checks that are voided will be distributed to a *cy pres* recipient. The *cy pres* recipient shall be The United Way, a non-profit organization that supports projects that benefit employees and applicants throughout the State of California.

### **13. *How Will the Attorneys for the Class Be Paid?***

The Court-appointed attorneys for Plaintiff and the employees will be paid from the Gross Settlement Amount, subject to Court approval, in an amount not to exceed 33 1/3% of the Gross Settlement Amount (\$833,250) in attorneys' fees and an amount not to exceed \$30,000 in actual litigation costs. Shaw has paid and will continue to pay all of its own attorneys' fees and costs.

### **14. *How Will the Class Representative Be Paid?***

Plaintiff Randolph Fitch will also be paid, subject to Court approval, an amount not to exceed \$5,000, in consideration for bringing this case, for the time and effort he put into litigating this case and for conferring a benefit upon other employees and the State of California.

### **15. *What do I do if I Need More Information or Have Questions?***

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at [www.phoenixclassaction.com/fitch-v-shaw/](http://www.phoenixclassaction.com/fitch-v-shaw/), you can also receive a copy of the settlement agreement by contacting Class Counsel at (619) 234-2833, or by accessing the Court docket in this case through the Court's website at <https://www.sb-court.org>, or by visiting the office of the Court at 247 W 3rd Street, San Bernardino, CA 92415 between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. You may also ask Class Counsel for a copy of any of the case documents to be mailed to you free of charge. Please refer to the *Randolph Fitch v. Shaw Industries, Inc.; Shaw Industries Group, Inc.* Class Action Settlement when calling the settlement administrator or Class Counsel.

To view the case documents on the Court's website, access the website <https://www.sb-court.org>. Once at this website, click on the "Online Services" link. Then click the link that says "Learn More" under the heading "Access Case Information and Document Sales." At the bottom of the page, click on the link "Accept (Civil/Appals)." Click the link "Click here to access the Portal" at the bottom of the webpage. Then, click on the button "Smart Search." On the next page, type the case number "CIVSB2024674" into the box with the words "\*Enter a Record Number or Name in Last, First Middle Suffix Format." Then, click the "Submit" button. You will be directed to a screen with the case name. Find the case name "Shaw Industries, INC." and click on the case number associated with this case (CIVSB2024674). This will take you to the case information. If you scroll down on this page you will be able to access all of the documents filed in the case.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**