

1 Joseph Lavi, Esq. (SBN 209776)  
jlavi@lelawfirm.com  
2 Vincent C. Granberry, Esq. (SBN 276483)  
vgranberry@lelawfirm.com  
3 Melissa A. Huether, Esq. (SBN 316604)  
mhuether@lelawfirm.com  
4 Pooja V. Patel, Esq. (SBN 317891)  
ppatel@lelawfirm.com  
5 **LAVI & EBRAHIMIAN, LLP**  
8889 W. Olympic Blvd., Suite 200  
6 Beverly Hills, California 90211  
Telephone: (310) 432-0000  
7 Facsimile: (310) 432-0001

8 Attorneys for Plaintiff MARTIN NOLASCO  
on behalf of himself and similarly situated Component/Piece Rate Drivers.

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

11 MARTIN NOLASCO, on behalf of himself  
12 and others similarly situated,

13 Plaintiff,

14 vs.

15 MOHAWK INDUSTRIES, INC, and  
16 MOHAWK ESV, INC.; and DOES 1 to 100,  
inclusive,

17 Defendants.

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

JAN 09 2023

BY   
RAFAEL HERNANDEZ, DEPUTY

Case No.: CIVSB2106866

**CLASS ACTION**

*[Assigned for all purposes to the Hon. David S. Cohn, Dept. S26]*

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

*[Filed concurrently with Notice of Motion and  
Motion for Preliminary Approval of Class Action  
Settlement; Declaration of Melissa A. Huether in  
Support Thereof]*

Hearing Information:  
Date: January 9, 2023  
Time: 10:00 a.m.  
Dept.: S26

1           The Motion for Preliminary Approval of a Settlement came before this Court on January 9,  
2 2023 at 10:00 a.m. in Department S26 of San Bernardino County Superior Court located at 247  
3 West Third St., San Bernardino, California 92415. The Court, having considered the proposed  
4 Stipulation of Class Action and PAGA Settlement attached as **Exhibit 1** to the Declaration of  
5 Melissa A. Huether in Support of Plaintiff’s Motion for Preliminary Approval of Class Action  
6 Settlement, and the Exhibits attached thereto (hereafter collectively, the “Settlement” or “Settlement  
7 Agreement”); having considered the Motion for Preliminary Approval of Class Action Settlement  
8 filed by the parties; having considered the respective points and authorities and declarations  
9 submitted by the parties in support thereof; and good cause appearing, HEREBY ORDERS THE  
10 FOLLOWING:

11           The Court grants preliminary approval of the settlement as set forth in the Settlement and  
12 finds the terms to be within the range of reasonableness of a settlement that ultimately could be  
13 granted approval by the Court at the Final Fairness Hearing. For purposes of the Settlement, the  
14 Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently well-  
15 defined community of interest among the Class in questions of law and fact. Therefore, for  
16 settlement purposes only, the Court grants conditional certification of the following “Class” defined  
17 as follows:

18                           Plaintiff Martin Nolasco and all current and former component/piece rate  
19                           drivers who worked for Defendant Mohawk ESV, Inc. in the State of  
20                           California any time from **January 9, 2021, through September 18, 2022.**

21           1. For purposes of the settlement, the Court further designates named Plaintiff Martin  
22 Nolasco as Class Representative, and Joseph Lavi, Esq., Vincent C. Granberry, Esq., Pooja V.  
23 Patel, Esq., and Melissa A. Huether, Esq. of Lavi & Ebrahimian, LLP, as Class Counsel.

24           2. The Court appoints Phoenix Class Action Administration Solutions as the Settlement  
25 Administrator.

26           3. A final fairness hearing on the question of whether the proposed settlement should  
27 be finally approved as fair, reasonable and adequate as to the members of the Class is scheduled in  
28 Department S26 of this Court, located at 247 W. Third St., San Bernardino, California 92415, on

5/30, 2023, at 10:00 a.m./p.m.

4. At the final fairness hearing, the Court will consider: (a) whether the settlement should be approved as fair, reasonable, and adequate for the class; (b) whether a judgment granting approval of the settlement should be entered; and (c) whether Plaintiff's application for an award of attorneys' fees, reimbursement of litigation expenses, and service award should be granted.

5. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of his request for final approval by no later than 16 court days prior the final fairness hearing.

6. Class Counsel shall file a motion for an award of attorneys' fees, reimbursement of litigation expenses and service award by no later than 16 court days prior to the final fairness hearing.

7. The Court approves, as to form and content, the Class Notice which is attached to the Settlement Agreement as ~~Exhibit A~~ *as Exh. to A, with a change to advise there is no opt-out at PAGA.*

8. Within fourteen (14) calendar days after the Parties receive written notice of Preliminary Approval, Defendant shall provide to the Settlement Administrator a list of the Class Members, including name, last known address, social security number and number of work weeks worked for Defendant in California during the Settlement Period ("Class Data").

9. Within ten (10) calendar days of receipt of the Class Data from Defendant, the Settlement Administrator shall mail the Class Notice to all Class Members via first-class U.S. mail.

10. Class Members shall have sixty (60) calendar days from the date of the postmark on the Class Notice to return to the Settlement Administrator a request for exclusion, challenge to workweeks, or objection ("Objection/Exclusion Deadline").

11. The Court finds that the forms of Class Notice to the Class regarding the pendency of the action and of this settlement, and the methods of giving notice to members of the Class constitute the best notice practicable under the circumstances and constitute valid, due, and sufficient notice to all members of the Class. They comply fully with the requirements of California Code of Civil Procedure section 382, California Civil Code section 1781, California

1 Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other  
2 applicable law.

3 12. The Court further approves the procedures for Class Members to participate in, opt  
4 out of, or object to the Settlement, as set forth in the Settlement Agreement and Class Notice.

5 13. Class Members who wish to request exclusion from the Settlement must do so in  
6 writing by the Objection/Exclusion Deadline. To be valid, any request for exclusion must: (1) be  
7 in writing and postmarked for service by mail to the Settlement Administrator no later than the  
8 Objection/Exclusion Deadline; (2) contain the full name, address, telephone number, and last four  
9 digits of the Social Security number of the Class Member objecting to the Settlement, which must  
10 match up with the social security number and either first or last name in Defendant's records; (3)  
11 have a signature and date; and (4) state "I wish to be excluded from the Settlement in *Martin*  
12 *Nolasco et al. v. Mohawk ESV, Inc. et al.*, San Bernardino County Superior Court, Case No.  
13 CIVSB2106866. I understand that in asking to be excluded from the Settlement class, I will not  
14 receive any money as part of the Settlement approved by the Court."

15 14. Class Members may also object to the Settlement in writing before the  
16 Objection/Exclusion Deadline. To be valid, all written objections, supporting papers and/or  
17 notices of intent to appear at the final approval hearing must: (1) clearly identify the Class Action  
18 by name and case number (*Martin Nolasco et al. v. Mohawk ESV, Inc. et al.*, Case No.  
19 CIVSB2106866); (2) contain the full name, address, telephone number, and last four digits of the  
20 Social Security number of the Class Member objecting to the Settlement, which must match up  
21 with the social security number and either first or last name in Defendant's records; (3) have a  
22 signature and date; and (4) be postmarked for service by mail and sent to the Settlement  
23 Administrator no later than the Objection/Exclusion Deadline.

24 15. Pending the Fairness Hearing, all proceedings in this action, other than proceedings  
25 necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this  
26 Order, are stayed.

1           16. Counsel for the parties are hereby authorized to utilize all reasonable procedures in  
2 connection with the administration of the settlement which are not materially inconsistent with  
3 either this Order or the terms of the Stipulation.

4           17. The Court orders the following Implementation Schedule for further proceedings:

Event	Timing
Class Data: Last day for Defendant to provide the Settlement Administrator the Class Data	14 calendar days after the Court's entry of this Order
Notice Date: last day for Settlement Administrator to mail Class Notice to Class Members.	10 calendar days after receipt of the Class Data from Defendant
Response Deadline: (i) last day for Settlement Class Members to submit requests for exclusion; (ii) last day for Class Members to challenge their workweeks; and (iii) last day for class members to submit objections.	60 calendar days after the date of mailing of the Class Notice
Last day for class counsel to file motion for award of attorneys' fees, costs, and service award.	16 calendar days prior to the final fairness hearing
Last day for parties to file motion and supporting documents for final approval of class action settlement.	16 calendar days prior to the final fairness hearing
Last day for the Parties to respond to Objections	10 calendar days prior to the final fairness hearing
Hearing on final approval of class action settlement.	

17           18. The Fairness Hearing and related prior deadlines set forth above may, from time to  
18 time and without further notice to the Class (except those who have filed timely and valid  
19 objections), be continued or adjourned by Order of the Court.

20  
21 **IT IS SO ORDERED.**

22  
23 Dated: 1/9/27

24   
25 \_\_\_\_\_  
26 Hon. David S. Cohn  
27 Judge of the Superior Court  
28