

**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: «First1» «Last1»:

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 \$«EstAmt», SUBJECT TO WITHOLDINGS 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 November 25, 2015 (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](http://www.gbdhlegal.com), or by contacting class counsel at 1-800-822-5000, 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 postmarked no later than November 25, 2015.***

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 November 25, 2015 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?

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: (800) 822-5000  
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 January 6, 2016, at 2:00 p.m. 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 Claims Administrator identified below:

*Talamantes et al. v. PPG Industries, Inc.* Claims Administrator  
P.O. Box 43034, Providence, RI 02940  
1-866-497-4094

#### **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.* Claims Administrator, P.O. Box 43034 Providence, RI 02940, or call 1-866-497-4094.

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