

JAMES E. ROGERS

The Honorable ~~Annette Messitt~~  
Hearing Date: March 20, 2024  
Without Oral Argument

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

CALEB OLTMANN, individually and on  
behalf of all those similarly situated,

Plaintiff,

v.

HIGHLAND ARMS ENTERPRISES INC.  
d/b/a PRECISION GARAGE DOOR  
SERVICE, a Washington Corporation,

Defendant.

No. 23-2-14774-0 SEA

~~[PROPOSED]~~ ORDER GRANTING  
SETTLEMENT CLASS  
CERTIFICATION AND  
PRELIMINARY APPROVAL OF  
CLASS-WIDE SETTLEMENT

This case, a proposed class action, is before the Court on Plaintiff's Unopposed Motion for Settlement Class Certification and Preliminary Approval of Class-wide Settlement. The Court has reviewed the motion and its attachments, the parties' Settlement Agreement, and the files, records, and proceedings to date in this matter.

Based on the Court's review, the Court finds, upon preliminary examination, that the parties' proposed Settlement appears fair, reasonable, and adequate, and within the range of reasonableness for preliminary settlement approval. The Court concludes that it should conduct a hearing following notice to the Settlement Class (defined below) to confirm that the parties'

~~[PROPOSED]~~ ORDER GRANTING SETTLEMENT  
CLASS CERTIFICATION AND PRELIM.  
APPROVAL OF CLASS-WIDE SETTLEMENT - 1

SCHROETER GOLDMARK & BENDER  
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Phone (206) 622-8000 • Fax (206) 682-2305

1 proposed Settlement is fair, reasonable, and adequate, and to determine whether the Court  
2 should grant final approval to the Settlement. The Court therefore **GRANTS** the unopposed  
3 motion.

4 It is therefore ORDERED that:

5 **I. PRELIMINARY APPROVAL OF PROPOSED SETTLEMENT**

6 The Court hereby approves the proposed Settlement, on a preliminary basis, as fair,  
7 reasonable, and adequate, and within the range of reasonableness for preliminary settlement  
8 approval. The Court finds that the proposed Settlement is the result of extensive arm's length  
9 negotiations and is sufficient to warrant notice of the Settlement to persons in the Settlement  
10 Class and a full hearing on the approval of the Settlement.  
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12 **II. PRELIMINARY CERTIFICATION OF SETTLEMENT CLASS,  
13 REPRESENTATIVES, AND COUNSEL**

14 Pursuant to CR 23 and the parties' Settlement Agreement, the Court hereby certifies,  
15 on a preliminary basis, the following class, representatives, and counsel:

16 **A. Settlement Class**

17 The Court hereby certifies the following "Settlement Class", comprising of individuals  
18 who:

- 19 (a) Were employed by Precision Door in the roles of "Technician,"  
20 "Estimator," and/or "Door Designer";  
21 (b) Were paid on a commission basis at any time from August 9, 2017  
22 through December 31, 2023; and  
23 (c) Received one or more commission payments during such period.

24 For purposes of implementing the Parties' Settlement Agreement, the Court finds that the  
25 prerequisites of CR 23(a) and (b)(3) have been satisfied for the Settlement Class. Specifically,  
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1 the Court finds that the Settlement Class, which consists of approximately 81 persons, is so  
2 numerous that joinder of all members is impracticable.

3 Further, there are questions of law and fact common to the Settlement Class that  
4 predominate over individual issues, including but not limited to: whether Precision Door's  
5 inclusion of overhead in its commission formula defied the proper construction of its  
6 agreement with commissioned employees, thus inflating its own costs and depriving  
7 employees of their full commission. As defined, all putative class members were subject to the  
8 same commission formula; thus, the claims of the putative class members in this case are bound  
9 by sufficient common threads of fact and law to satisfy CR 23(a)(2) and (b)(3). Moreover, a  
10 class action is superior to other available means for the fair and efficient resolution of this  
11 controversy.  
12

13 **B. Settlement Class Representative**

14 The Court hereby appoints Caleb Oltmanns as representative of the Settlement Class.  
15 The Court finds that Mr. Oltmanns is a member of the Settlement Class, as he worked for  
16 Precision Door as a Technician during the relevant period, was paid on a commission basis,  
17 and received at least one commission based on the disputed commission formula. He has also  
18 agreed to represent the interests of his fellow Settlement Class members, and the Court has not  
19 been apprised of any legal or other issue which would present a conflict of interest or disqualify  
20 him under CR 23(a)(4). The Court therefore finds Mr. Oltmanns suitable to serve as  
21 representative.  
22

23 **C. Settlement Class Counsel**

24 The Court hereby appoints the law firm of Schroeter Goldmark & Bender as "Class  
25 Counsel." The Court finds Class Counsel to be experienced attorneys who have represented  
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1 numerous clients successfully in class actions proceedings and that they are therefore capable  
2 of fairly and adequately representing the interests of the Settlement Class.

3 **III. SETTLEMENT HEARING**

4 The Court will conduct a "Settlement Hearing" approximately 120 days from the date  
5 of this Order, on Friday, Sept. 6, 2024, <sup>@10am</sup> as set forth in the Notice (described below). The  
6 Court will conduct the Settlement Hearing in Courtroom E 733 of the King County  
7 Courthouse, 516 Third Avenue, Seattle, WA 98104. The hearing may also be accessed  
8 remotely via Zoom at the following link: will be provided at a later time At the Settlement  
9 Hearing, the Court will determine whether the Settlement is fair, reasonable, and adequate and  
10 should be approved.  
11

12 Interested parties shall submit papers in support or opposition of the final approval of  
13 the Settlement (including with respect to the proposed service award to the class representative,  
14 and to Class Counsel's application for attorneys' fees, costs, and expenses), according to the  
15 deadlines set forth in the Notice.  
16

17 After the Settlement Hearing, the Court may enter an order and final judgment in  
18 accordance with the Settlement Agreement that will adjudicate the rights of the Settlement  
19 Class members with respect to the claims being settled. The scope of the claims to be released  
20 will be:

21 . . . any and all claims, whether known or unknown, that were brought or that  
22 could have been brought based on any facts alleged in the Case with respect to  
23 a failure to timely or properly pay all commissions. The Released Claims  
24 specifically include, but are not limited to, any and all claims relating to any  
25 alleged unpaid commissions, improper deductions from commissions, late  
26 payment of commissions, and any other claims arising out of or relating to the  
allegations set forth in the case against Precision Door, as well as any attendant  
claims for unpaid wages, overtime payments, premium payments, interest,  
exemplary damages, liquidated damages, and attorney's fees and costs arising  
out of or relating to any of the foregoing.

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**IV. NOTICE TO SETTLEMENT CLASS MEMBERS**

The Court hereby approves the parties' "Notice of Class Action Settlement" ("Notice") attached to the Settlement Agreement. The Court finds that this Notice, and the proposed manner of its dissemination as set forth in the Settlement Agreement, is the best practicable notice under the circumstances and is reasonably calculated to apprise the Settlement Class of the pendency of this action and of their right to object to or exclude themselves from the Settlement Class. The Court further finds that the Class Notice program is reasonable, that it constitutes due, adequate, and sufficient notice to all persons entitled to receive notice, and that it meets the requirements of due process and CR 23(c)(2).

The Court further directs the Settlement Administrator (Atticus) to send the Notices to the Settlement Class within 30 days after the entry of this Order. The Notices shall be sent by direct mail to the most recent mailing address for each Settlement Class member, as reflected in reasonably available employment records of Precision Door. The Settlement Administrator shall perform skip tracing for any notices that are returned as undeliverable.

**V. SETTLEMENT ADMINISTRATION**

The Court confirms that it is appropriate for Precision Door to provide the information necessary for the Settlement Administrator, Atticus, to provide the notice contemplated herein and to administer the settlement, including names and addresses. Precision Door also will provide the information necessary to permit Class Counsel to calculate settlement awards for each Settlement Class member (as defined by the Settlement Agreement).

**VI. EXCLUSION FROM THE SETTLEMENT CLASS**

Prospective members of the Settlement Class may opt out and exclude themselves from the Settlement Class by sending a written request to the designated address within 60 days after

1 the mailing of notices (“the Notice Deadline”). To be valid, exclusion requests must be  
2 postmarked or received by the Notice Deadline, must be signed, and must include the following  
3 statement: “I request to be excluded from the class settlement in the lawsuit *Oltmanns v.*  
4 *Highland Arms Enterprises, Inc. d/b/a Precision Garage Door Service*, Case No. 23-2-14774-  
5 0 SEA.”

6 The Settlement Administrator shall provide Class Counsel with all requests for  
7 exclusion that it receives no later than 15 days after receipt.

8 All Settlement Class members who do not request exclusion in accordance with the  
9 terms set forth herein will be bound by all determinations and judgments in this lawsuit.  
10

#### 11 **VII. OBJECTIONS AND APPEARANCES**

12 Any person in the Settlement Class who has not timely submitted a valid request for  
13 exclusion from the Settlement Class, and is thus a member of the Settlement Class, may appear  
14 at the Settlement Hearing to argue that the proposed Settlement Agreement should not be  
15 approved and/or to oppose the application of Class Counsel for an award of attorneys’ fees and  
16 the service award to the class representative.  
17

18 In order to be heard at the hearing, the person must file a written objection with the  
19 Clerk of Court, as instructed in the Notice.

20 Objections that are not timely will be waived and will not be considered at the  
21 Settlement Hearing.

#### 22 **VIII. CONSEQUENCES OF A FAILURE TO APPROVE THE SETTLEMENT** 23 **AGREEMENT**

24 If for any reason the Court does not approve the Settlement Agreement, or the parties  
25 fail to obtain the final judgment contemplated by that Settlement Agreement, or the Settlement  
26 Agreement is otherwise terminated pursuant to its terms, then the following will apply:

1           1.       All orders and findings entered in connection with the Settlement Agreement  
2 will become void and have no further effect.

3           2.       The preliminary certification of the Settlement Class in this Order will be  
4 vacated automatically and void. No form of preclusion (whether waiver, estoppel, or  
5 otherwise) will attach to that former preliminary certification, and the parties will be prohibited  
6 from asserting otherwise in this or any other proceeding.

7           3.       Neither the Settlement Agreement, nor this Order, nor any act undertaken in  
8 conjunction with either, will be (a) admissible in this or any other proceeding for any purpose  
9 (whether related to class certification, alleged liability, or otherwise), or (b) construed or  
10 deemed as an admission or concession by any party with respect to any point of fact or law.  
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12                           **IX.   PROHIBITION OF FURTHER PROCEEDINGS**

13           The Court hereby stays all further proceedings in this lawsuit, except as may be  
14 necessary to carry out this Order and implement the parties' settlement.

15           Pending final determination of whether the Court should approve the Settlement  
16 Agreement, the Court hereby enjoins Mr. Oltmanns, all members of the Settlement Class, and  
17 all persons purporting to act on behalf of any of them, from commencing or prosecuting (either  
18 directly, representatively, or in any other capacity) any claim that is proposed by the Settlement  
19 Agreement to be released. This injunction applies to all courts, arbitral forums, and tribunals  
20 throughout the world.  
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22                           **X.   PRELIMINARY APPROVAL OF FEES**

23           The Court conditionally approves Class Counsel's request for an attorneys' fee award  
24 of 25% of the gross Settlement Fund, or \$142,500. The Court also conditionally approves  
25 recovery of actual costs paid, which the parties expect to remain under \$5,000. This approval  
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1 is preliminary and subject to modification at the time of final settlement approval upon a  
2 showing of appropriate cause.

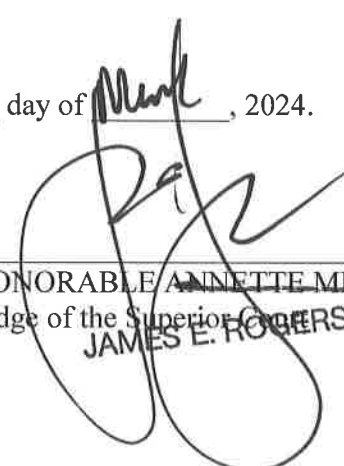
3 The Court preliminarily approves the award of an incentive payment of \$10,000 to Mr.  
4 Oltmanns in recognition of his role in this case and service to the Settlement Class. This  
5 approval is preliminary and subject to modification at the time of final settlement approval.

6 **XI. MOTION FOR FINAL APPROVAL**

7 The Court directs Class Counsel to submit a motion for final approval of the settlement,  
8 along with a proposed order approving the settlement and awarding Class Counsel's fees/costs  
9 and incentive payments for the class representative no later than ten (10) calendar days prior  
10 to the date of the final Settlement Hearing. Such papers shall also inform the Court whether  
11 the mailing to Settlement Class Members was completed in accordance with the requirements  
12 of this Order, and provide information concerning any opt-outs or objections received as a  
13 result of such mailing.  
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15 **IT IS SO ORDERED.**

16 DOEN IN OPEN COURT this 26 day of March, 2024.

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HONORABLE ANNETTE MESSITT  
Judge of the Superior Court  
JAMES E. ROGERS

Presented by:

SCHROETER GOLDMARK & BENDER

s/ Andrew D. Boes

ANDREW D. BOES, WSBA #58508  
LINDSAY L. HALM, WSBA #37141  
ADAM J. BERGER, WSBA #20714

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