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12 Attorneys for Plaintiffs
13 AUSTEN SHWIYHAT and
14 WALTER RAINES

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF SAN JOAQUIN**

17 AUSTEN SHWIYHAT and WALTER
18 RAINES, on behalf of themselves, all
19 others similarly situated, and the State of
California as private attorneys general,

20 Plaintiff,

21 vs.

22 MARTIN MARIETTA MATERIALS,
23 INC.; MARTIN MARIETTA
24 NORTHERN CALIFORNIA
25 AGGREGATES, LLC; and DOES 1
through 100, inclusive,

26 Defendants.

Case No. STK-CV-UOE-2025-0010132

KW
**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

11/8
9/25
Filed SEP 2 5 2025
STEPHANIE BOHRER, CLERK

By *[Signature]*
DEPUTY

KW
[Proposed] Order Granting Motion for Preliminary Approval of Class Action Settlement
Shwiyhat, et al. v. Martin Marietta Materials, Inc., et al.

1 Plaintiffs Austen Shwiyhat and Walter Raines (collectively, "Plaintiffs") and Defendants
2 Martin Marietta Materials, Inc. and Martin Marietta Northern California Aggregates, LLC
3 (collectively, "Martin Marietta" and/or "Defendants") (Plaintiffs and Defendants are collectively
4 referred to herein as the "Settling Parties") came before this Court for a hearing regarding
5 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. Plaintiffs request an
6 order: (1) preliminarily approving the proposed class settlement, (2) preliminarily certifying the
7 proposed class; (3) preliminarily appointing Leonard Emma of Emma Law, P.C. dba Employment
8 Lawyers and Joseph Lavi of Lavi & Ebrahimian, LLP as counsel for the class as class counsel;
9 (4) approving the proposed notice of settlement to class members; (5) appointing Atticus
10 Administration LLC as the third-party claims administrator, and (6) setting a date for final
11 settlement approval by this Court. The Court has considered the Class Action and PAGA
12 Settlement Agreement (the "Settlement" and/or "Settlement Agreement"), the proposed Court
13 Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval (the
14 "Class Notice"), the submissions of counsel, and all other papers filed in this action. The matters
15 having been submitted and good cause appearing therefore, the Court hereby grants preliminary
16 approval of the class action settlement and the Court hereby finds and orders as follows:

17 **FINDINGS**

18 1. All defined terms contained herein shall have the same meanings as set forth in the
19 Settlement Agreement executed by the Settling Parties and filed with this Court, including any
20 amendments thereto.

21 2. The Court finds on a preliminary basis that settlement for \$1,350,000.00 with no
22 reversion, as memorialized in the Settlement Agreement, is within the range of reasonableness.
23 The Court further finds on a preliminary basis that the escalator provisions, as memorialized in
24 the Settlement Agreement at Paragraph 8, are within the range of reasonableness should Martin
25 Marietta choose to exercise its option to utilize those provisions.

26 3. The proposed Class is defined as any person employed by Martin Marietta in the
27 State of California and classified as an hourly, non-exempt employee who worked for Martin
28 Marietta during the Class Period. The Class Period is defined as the period from June 20, 2022,

1 through March 31, 2025, unless modified to expand or contract the Class Period pursuant to
2 Paragraph 8 of the Settlement Agreement. A PAGA Group Employee means a person employed
3 by Martin Marietta in California and classified as an hourly, non-exempt employee who worked
4 for Martin Marietta during the PAGA Period. The PAGA Period means the period from June 20,
5 2022, through March 31, 2025, unless modified pursuant to Paragraph 8 of the Settlement
6 Agreement.

7 4. The proposed Class meets the requirements for certification under Code of Civil
8 Procedure 382 and Rule of Court 3.765: (a) the proposed Class is ascertainable and so numerous
9 that joinder of all members of the class is impracticable; (b) there are questions of law or fact
10 common to the proposed Class; (c) the claims of Plaintiffs are typical of the claims of the members
11 of the proposed Class; (d) Plaintiffs will fairly and adequately protect the interests of the Class;
12 (e) a class action is superior to other available methods for an efficient adjudication of this
13 controversy; and (f) Plaintiffs' counsel is qualified to also serve as counsel for the Class.

14 5. The Court preliminarily finds that the allocation of \$50,000.00 to Private Attorney
15 General Act ("PAGA") claims is within the range of reasonableness and helps serve the purpose
16 of PAGA by providing private enforcement of penalties previously recoverable solely by the
17 State.

18 6. The Court preliminarily finds that the requested attorneys' fees of \$472,500.00, or
19 one-third of the common fund, is within the range of reasonableness. Plaintiffs shall provide the
20 Court with information supporting this request in connection with Plaintiffs' anticipated Motion
21 for Attorneys' Fees, Costs and Class Representative Service Payments, at which point the Court
22 will make a final determination as to the amount of attorneys' fees to be awarded.

23 7. The Court preliminarily finds that the requested litigation costs and expenses of up
24 to \$50,000 are within the range of reasonableness. Plaintiffs shall provide the Court with
25 information supporting this request in connection with Plaintiffs' anticipated Motion for
26 Attorneys' Fees, Costs and Class Representative Service Payments, at which point the Court will
27 make a final determination as to the amount of costs to be awarded.

28 8. The Court hereby preliminarily finds that the requested administration fee of up to

1 \$20,000.00 is within the range of reasonableness.

2 9. The Court preliminarily finds that the requested class representative service
3 payments of \$10,000.00 to each Plaintiff are within the range of reasonableness. Plaintiffs shall
4 provide the Court with information supporting this request in connection with Plaintiffs'
5 anticipated Motion for Attorneys' Fees, Costs and Class Representative Service Payments, at
6 which point the Court will make a final determination as to the amount of the service payment to
7 be awarded.

8 10. The Settling Parties have also presented to the Court for review a plan to provide
9 notice to the proposed Class of the terms of the Settlement and the options facing them including,
10 *inter alia*: to receive a payment under the Settlement, to request exclusion from the Settlement, or
11 to object to the Settlement. The Court finds that the notice plan proposed by the Settling Parties
12 in the Settlement Agreement is the best practicable under the circumstances.

13 **ORDERS**

14 11. The Court Approved Notice of Class Action Settlement and Hearing Date for Final
15 Court Approval (the "Class Notice"), attached hereto as Exhibit 1, is hereby approved. The
16 Settlement Administrator shall mail Exhibit 1 to the Class Members pursuant to the applicable
17 provisions in the Settlement Agreement. Defendants shall provide the Settlement Administrator
18 with the information necessary to conduct this mailing as set forth in the Settlement Agreement.
19 The Settlement Administrator will take reasonable measures to maintain the confidentiality of
20 information related to the Class Members and will use such information only for furtherance of
21 obligations arising from or related to the Settlement Agreement.

22 12. The Court appoints Austen Shwiyhat and Walter Raines as Class Representatives.

23 13. The Court appoints Leonard Emma of Emma Law, P.C. dba Employment Lawyers
24 and Joseph Lavi of Lavi & Ebrahimian, LLP as Class Counsel.

25 14. The Court establishes the following deadlines:

- 26 • Within 30 calendar days of Preliminary Approval, Defendants shall provide the Settlement
27 Administrator with the names, last known mailing addresses, social security numbers,
28 estimated number of workweeks worked during the Class Period, and estimated number

of pay periods during the PAGA Period for each Settlement Class member ("Class Data").
The Settlement Administrator will perform address updates and verifications, as
necessary, prior to the first mailing.

- Within 14 calendar days after the Settlement Administrator receives the Class Data from Defendant, the Settlement Administrator shall mail the Class Notice by first class mail.
- Class Members will have 45 days to opt-out or object.

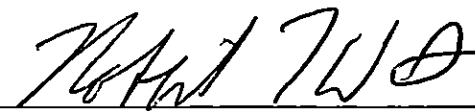
15. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

16. Class Counsel shall respond to any written objections to the Settlement in Plaintiffs' Motion for Final Approval, which motion shall be filed and served sixteen (16) court days prior to the date of the Final Approval Hearing which is set for Feb 26, 2026 (date) at 9:00 am (time) in Department 11B of this Court.

17. At the Final Approval Hearing, Class Counsel shall be prepared to address any objections to the Settlement and to provide other information as appropriate bearing on whether or not the Settlement should be finally approved.

IT IS SO ORDERED.

Dated: September 25, 2025


JUDGE OF THE SUPERIOR COURT
ROBERT T. WATERS