

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENWOOD DIVISION

In re:) MDL No.: 8:11-mn-02000-JMC
Building Materials Corporation of America)
Asphalt Roofing Shingle Products Liability)
Litigation)

This Agreement relates to:)

SUSAN D. ASHLEY, on behalf of herself and)
all others similarly situated,)

Plaintiff,)

Civil Action No. 8:13-03424-JMC

v.)

GAF MATERIALS CORPORATION,)

Defendant.)

THOMAS BYRD, on behalf of himself and all)
others similarly situated,)

Plaintiff,)

Civil Action No. 8:12-00789-JMC

v.)

GAF MATERIALS CORPORATION,)

Defendant.)

KATHLEEN ERICKSON, on behalf of herself)
and all others similarly situated,)

Plaintiff,)

Civil Action No. 8:11-03085-JMC

v.)

GAF MATERIALS CORPORATION,)

Defendant.)

**TINA GRIFFIN, on behalf of herself and all
others similarly situated,**

Plaintiff,

v.

Civil Action No. 8:12-00082-JMC

GAF MATERIALS CORPORATION,

Defendant.

**DIANE HANER, on behalf of herself and all
others similarly situated,**

Plaintiff,

v.

Civil Action No. 8:11-02926-JMC

GAF MATERIALS CORPORATION,

Defendant.

**SYBIL MCDANIEL, on behalf of herself and all
others similarly situated,**

Plaintiff,

v.

Civil Action No. 8:11-02879-JMC

GAF MATERIALS CORPORATION,

Defendant.

**JAMES MOROCCO, on behalf of himself and
all others similarly situated,**

Plaintiff,

v.

Civil Action No. 8:11-02785-JMC

GAF MATERIALS CORPORATION,

Defendant.

**ANGELA POSEY, on behalf of herself and all
others similarly situated,**

Plaintiff,

v.

GAF MATERIALS CORPORATION,

Defendant.

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) **Civil Action No. 3:11-02784-JMC**
)
)

**MICHAEL RAGAN, on behalf of himself and
all others similarly situated,**

Plaintiff,

v.

GAF MATERIALS CORPORATION,

Defendant.

)
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)
) **Civil Action No. 8:12-00095-JMC**
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**CONSENT ORDER TO AMEND THE SETTLEMENT AGREEMENT,
FORM OF NOTICE AND PRELIMINARY APPROVAL ORDER**

This matter is before the Court pursuant to a Joint Motion for Consent Order to Amend the Settlement Agreement, Form of Notice and Preliminary Approval Order (the “Joint Motion”) by Susan D. Ashley, Thomas Byrd, Kathleen Erickson, Tina Griffin, Diane Haner, Sybil McDaniel, James Morocco, Angela Posey and Michael Ragan, named plaintiffs in the nine above-captioned actions (hereinafter “Plaintiffs”), in their individual and representative capacities on behalf of themselves and the Settlement Class, and defendant Building Materials Corporation of America d/b/a GAF Materials Corporation (hereinafter “GAF”) (collectively, the “Parties”).¹

After careful consideration of the Joint Motion and the exhibits attached thereto, it is hereby **ORDERED** that the Court’s Order Granting Motion to Certify Class for Settlement Purposes and for Preliminary Approval of Class Action Settlement and Form and Dissemination Notice to the Class (the “Preliminary Approval Order”)² is amended as follows:

¹ The Court’s use of capitalized terms in this Consent Order reflects the use of such terms in the Parties’ Amended Settlement Agreement (attached as Exhibit 2 to the Joint Motion) and the capitalized terms used in this Consent Order shall have the same meaning as provided in the Amended Settlement Agreement.

² The Preliminary Approval Order is available at ECF No. 115 (C/A No. 11-mn-02000-JMC); ECF No. 61 (C/A No. 3:11-cv-02784-JMC); ECF No. 53 (C/A No. 8:11-cv-02785-JMC); ECF No. 53 (C/A No. 8:11-cv-02879-JMC); ECF No. 62 (C/A No. 8:11-cv-02926-JMC); ECF No. 52 (C/A No. 8:11-cv-03085-JMC); ECF No. 51 (C/A No. 8:12-cv-00082-JMC); ECF No. 54 (C/A No. 8:12-cv-00095-JMC); ECF No. 41 (C/A No. 8:12-cv-00789-JMC); and ECF No. 31 (C/A No. 8:13-cv-03424-JMC).

1. On September 23, 2014, the Parties, by and through their duly authorized counsel, entered into a settlement agreement (“Settlement Agreement”) to resolve the claims of the Settlement Class.³

2. On September 23, 2014, Plaintiffs filed a Motion to Certify Class for Settlement Purposes and for Preliminary Approval of Class Action Settlement and Form and Dissemination of Notice to the Class (“Motion for Preliminary Approval”).⁴

3. After a hearing on October 15, 2014 on the Motion for Preliminary Approval, this Court issued the Preliminary Approval Order (1) granting Plaintiffs’ Motion for Preliminary Approval; (2) preliminarily and conditionally certifying the Settlement Class; (3) approving the form and content of the notice of settlement; (4) issuing an injunction and stay of all claims and actions against GAF; and (5) setting a final fairness hearing.

4. The Settlement Class approved by the Court in its Preliminary Approval Order is defined as:

All persons and entities who are Qualifying Owners who own any property located in the United States with Non-Mobile Timberline[®] Shingles manufactured during the period from January 1, 1998 through December 31, 2009.

³ The Settlement Agreement may be found at ECF No. 106-1 (C/A No. 11-mn-02000-JMC); ECF No. 55-1 (C/A No. 3:11-cv-02784-JMC); ECF No. 49-1 (C/A No. 8:11-cv-02785-JMC); ECF No. 49-1 (C/A No. 8:11-cv-02879-JMC); ECF No. 58-1 (C/A No. 8:11-cv-02926-JMC); ECF No. 48-1 (C/A No. 8:11-cv-03085-JMC); ECF No. 47-1 (C/A No. 8:12-cv-00082-JMC); ECF No. 50-1 (C/A No. 8:12-cv-00095-JMC); ECF No. 37-1 (C/A No. 8:12-cv-00789-JMC); and ECF No. 27-1 (C/A No. 8:13-cv-03424-JMC).

⁴ The Motion for Preliminary Approval is available at ECF No. 104 (C/A No. 11-mn-02000-JMC); ECF No. 53 (C/A No. 3:11-cv-02784-JMC); ECF No. 47 (C/A No. 8:11-cv-02785-JMC); ECF No. 47 (C/A No. 8:11-cv-02879-JMC); ECF No. 56 (C/A No. 8:11-cv-02926-JMC); ECF No. 46 (C/A No. 8:11-cv-03085-JMC); ECF No. 45 (C/A No. 8:12-cv-00082-JMC); ECF No. 48 (C/A No. 8:12-cv-00095-JMC); ECF No. 35 (C/A No. 8:12-cv-00789-JMC); and ECF No. 25 (C/A No. 8:13-cv-03424-JMC).

(Preliminary Approval Order at 10.)

5. The Claims Program procedures set forth in section 7 of the Settlement Agreement, which were agreed upon by the Parties and approved by the Court in its Preliminary Approval Order, provided that the entire claims process would be administered by GAF. The Parties have amended the Settlement Agreement so that a third party claims administrator may assist GAF with some aspects of the claims administration process. The Court finds that the claims procedure set forth in the Amended Settlement Agreement is fair and sufficient.

6. In particular, under the Amended Settlement Agreement, a third party claims administrator will assist GAF with the initial intake of claims, including (1) answering telephone calls, (2) monitoring and responding to email and website requests, (3) mailing Claims Kits, (4) receiving claim forms and supporting documentation, (5) assigning claim numbers, (6) reviewing claims for completeness (i.e., verifying that a claim includes the documentation and material required under the Settlement Agreement) and (7) sending Deficiency Notices.

7. The claims procedure set forth in the Amended Settlement Agreement is in all material aspects unchanged from that set forth in the Settlement Agreement. The changes reflected in the Amended Settlement Agreement are non-substantive, administrative changes that the Court finds would not affect any evaluation of the settlement by class members.

8. The Amended Settlement Agreement is preliminarily approved, subject to a final approval hearing by this Court to determine whether the settlement is fair, adequate and reasonable. In view of the non-substantive nature of the changes to the settlement, and the fact that notice of the settlement has not been published or mailed to class members and the deadline for class members to object to or opt out of the settlement is not until March 16, 2015, the Court finds

that the dates for the submission of objections and requests for exclusion and the final fairness hearing will remain as set forth in the Preliminary Approval Order.

9. The Amended Settlement Agreement supersedes the Settlement Agreement.

10. The form of notice, in particular the Detailed Notice⁵ referred to in the Preliminary Approval Order in paragraph 45 and elsewhere is approved as revised to reflect the changes set forth in the Amended Settlement Agreement. A copy of the approved Detailed Notice is attached as Exhibit 4 to the Joint Motion.

SO ORDERED:



The Honorable J. Michelle Childs
United States District Judge

December 3, 2014
Columbia, South Carolina

⁵ The Detailed Notice is attached as Exhibit E to the Notice Plan (ECF No. 110-1 (C/A No. 11-mn-02000-JMC); ECF No. 57-1 (C/A No. 3:11-cv-02784-JMC); ECF No. 51-1 (C/A No. 8:11-cv-02785-JMC); ECF No. 51-1 (C/A No. 8:11-cv-02879-JMC); ECF No. 60-1 (C/A No. 8:11-cv-02926-JMC); ECF No. 50-1 (C/A No. 8:11-cv-03085-JMC); ECF No. 49-1 (C/A No. 8:12-cv-00082-JMC); ECF No. 52-1 (C/A No. 8:12-cv-00095-JMC); ECF No. 39-1 (C/A No. 8:12-cv-00789-JMC); ECF No. 29-1 (C/A No. 8:13-cv-03424-JMC).)

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