

Federal Court



Cour fédérale

Date: 20240730

Docket: T-1049-20

Ottawa, Ontario, July 30, 2024

PRESENT: Justice Andrew D. Little

BETWEEN:

DAVID REGAN

Plaintiff

and

**MASONITE INTERNATIONAL CORPORATION,
MASONITE CORPORATION, JELD-WEN, INC., JELD-WEN HOLDING, INC.
and JELD-WEN OF CANADA, LTD.**

Defendants

ORDER

- JELD-WEN Notice Approval and Consent Certification -

THIS MOTION, made by the Plaintiff, David Regan, in writing, for an order approving the form and content of the notice of certification and settlement approval hearing (the “Notice”) and the method of dissemination of the Notice, and certifying this proceeding as a class proceeding for settlement purposes only against JELD-WEN, Inc., JELD-WEN Holding, Inc. and JELD-WEN of Canada, Ltd. (the “Settling Defendants”) was read this day at the Federal Court, 90 Sparks Street, Ottawa, Ontario.

ON READING the materials filed, including the settlement agreement with the Settling Defendants dated as of March 27, 2024, attached to this Order as Schedule “A” (the “Settlement Agreement”), and on reading the submissions to counsel for the Plaintiff;

AND ON BEING ADVISED that the Plaintiff and Settling Defendants consent to this Order, and the Masonite Defendants take no position;

THIS COURT ORDERS that:

1. For the purposes of this Order, except to the extent they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. This action is certified as a class proceeding as against the Settling Defendants for settlement purposes only.
3. The “Settlement Class” is defined as follows:

All persons in Canada who purchased Interior Molded Doors in Canada during the “Class Period”, except the Excluded Persons.

 - The Class Period means March 1, 2014 to the date of this Order.
4. David Regan is appointed as the representative plaintiff on behalf of the Settlement Class.
5. Siskinds LLP is appointed as Class Counsel in this action.
6. The following claims are asserted on behalf of the Settlement Class:
 - a) Claims for loss or damage arising from unlawful conspiracy, under s. 36 of the *Competition Act*.
7. The relief sought by the Settlement Class is:

- a) Damages in the amount of any unlawful overcharge.
8. The following issue is common to the Settlement Class:

Did the Settling Defendants conspire to fix, maintain, increase, or control the prices of Interior Molded Doors?
 9. Settlement Class Members shall be given notice of the settlement approval hearing and the certification of this action in substantially the form set out in Schedule “B” and in the manner set out in Schedule “C”.
 10. The deadline for opting out shall be 30 days following the date of emailing or mailing of the long-form notice of settlement approval hearing (the “Opt-Out Deadline”).
 11. Putative members of the Settlement Class may opt out of the Federal Action by emailing or mailing a request to opt out to Class Counsel at the address specified in the long-form notice of settlement approval hearing on or before the Opt-Out Deadline. The written election to opt out must include the following information;
 - a) the Person’s full name, current mailing and email address and telephone number;
 - b) if the Person seeking to opt out is a corporation, the name of the corporation and the position of the Person submitting the request to opt out on behalf of the corporation;
 - c) a statement to the effect that the Person wishes to be excluded from the Action; and
 - d) the reason(s) for opting out.
 12. Any putative Settlement Class member who validly opts out of the Federal Action shall have no further right to participate in the Federal Action or to share in the

distribution of any funds received as a result of a judgment of settlement in the Federal Action.

13. No further right to opt out of the Federal Action will be provided.
14. In accordance with Rule 334.21(2), a Settlement Class member shall be deemed to have opted out from the Federal Action if the Settlement Class member does not, before expiry of the Opt-Out Deadline, discontinue a proceeding brought by the Settlement Class member that raises the common questions of law or fact set out in paragraph 8 of this Order.
15. Within seven (7) days of the Opt-Out Deadline, Class Counsel shall provide to the Settling Defendants copies of the written elections to opt out.
16. If the Settlement Agreement is not approved, is terminated, order otherwise fails to take effect for any reason, this Order, including certification for settlement purposes only, shall be set aside and declared null and void and of no force or effect without the need for any further order of this Court.

“Andrew D. Little”

Judge

Schedule "A"

**CANADIAN INTERIOR MOLDED DOORS
NATIONAL SETTLEMENT AGREEMENT**

Made as of March 27, 2024

Between

DAVID REGAN and DÉVELOPPEMENT ÉMERAUDE INC.

(the "Plaintiffs")

and

JELD-WEN, INC., JELD-WEN HOLDING, INC., and JELD-WEN OF CANADA, LTD.

(the "Settling Defendants")

**CANADIAN INTERIOR MOLDED DOORS
NATIONAL SETTLEMENT AGREEMENT**

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**CANADIAN INTERIOR MOLDED DOORS
NATIONAL SETTLEMENT AGREEMENT**

RECITALS

A. WHEREAS the Proceedings were commenced by the Federal Plaintiff in Federal Court and the Quebec Plaintiff in Quebec;

B. WHEREAS the Proceedings allege that the Defendants participated in an unlawful conspiracy to fix, maintain, increase, or control the price of Interior Molded Doors sold in Canada and North America during the Class Period, contrary to Part VI of the *Competition Act*, RSC 1985, c C-34 and/or the civil law;

C. WHEREAS the Releasees do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful conduct alleged in the Proceedings, or in any Other Actions, and otherwise deny all liability and assert that they have complete defences in respect of the merits of the Proceedings and any Other Actions or otherwise;

D. WHEREAS the Plaintiffs, Class Counsel and the Settling Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiffs' allegations against the Releasees, which allegations are expressly denied by the Settling Defendants;

E. WHEREAS the Settling Defendants are entering into this Settlement Agreement in order to achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiffs and the Settlement Class in the Proceedings and any Other Actions, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

F. WHEREAS the Settling Defendants do not hereby attorn to the jurisdiction of the Courts or any other court or tribunal in respect of any civil, criminal or administrative process except to the extent they have previously done so in the Proceedings or as expressly provided in this Settlement Agreement with respect to the Proceedings;

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G. WHEREAS Counsel for the Settling Defendants and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement related to Canada;

H. WHEREAS as a result of these settlement discussions and negotiations, the Settling Defendants and the Plaintiffs have entered into this Settlement Agreement which sets out all of the terms and conditions of the settlement between the Settling Defendants and the Plaintiffs, both individually and on behalf of the Settlement Class;

I. WHEREAS Class Counsel, on their own behalf and on behalf of the Plaintiffs and the proposed Settlement Class, have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, having regard to the burdens and expense associated with prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the proposed Settlement Class;

J. WHEREAS the Parties therefore wish to and hereby finally resolve on a national basis, without admission of liability, the Proceedings and any Other Actions as against the Releasees;

K. WHEREAS the Parties consent to certification of the Federal Action as a class proceeding and to the Settlement Class and Common Issue in respect of the Federal Action solely for the purposes of implementing this Settlement Agreement and contingent on approval by the Federal Court as provided for in this Settlement Agreement, on the express understanding that such certification shall not derogate from the respective rights of the Parties in the event that this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

L. WHEREAS the Federal Plaintiff asserts that he is an adequate class representative for the Settlement Class he seeks to represent and will seek to be appointed as the representative plaintiff; and

M. WHEREAS the Parties intend to pursue the approval of this Settlement Agreement through the Federal Court and obtain a discontinuance of the Quebec Action as against the Settling Defendants;

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NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Federal Action be settled and dismissed with prejudice as to the Settling Defendants only, and that the Quebec Action be discontinued against the Settling Defendants, all without costs as to the Plaintiffs, the Settlement Class, and the Settling Defendants, subject to the approval of the Federal Court, on the following terms and conditions:

SECTION 1 – DEFINITIONS

For the purposes of this Settlement Agreement, including the recitals and schedules hereto:

- (1) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.
- (2) **Claims Administrator** means the firm proposed by Class Counsel and appointed by the Federal Court, to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Distribution Protocol, and any employees of such firm.
- (3) **Class Counsel** means Federal Counsel and Quebec Counsel.
- (4) **Class Counsel Disbursements** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the Proceedings, as well as any adverse costs awards issued against the Plaintiffs in the Proceedings.
- (5) **Class Counsel Fees** means the fees of Class Counsel, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Settlement Class Members to any other body or Person.
- (6) **Class Period** means March 1, 2014 to the date of the order certifying the Federal Action against the Settling Defendants for settlement purposes.
- (1) **Common Issue** means: Did the Settling Defendants conspire to fix, maintain, increase, or control the prices of Interior Molded Doors?
- (7) **Counsel for the Settling Defendants** means Stikeman Elliott LLP.

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- (8) **Courts** means the Federal Court and the Quebec Court.
- (9) **Date of Execution** means the date on the cover page as of which the Parties have executed this Settlement Agreement.
- (10) **Defendants** means the entities named as defendants in any of the Proceedings as set out in Schedule A, and any Persons added as defendants in any of the Proceedings in the future. For greater certainty, Defendants includes the Settling Defendants.
- (11) **Distribution Protocol** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Federal Court.
- (12) **Effective Date** means the date when Final Orders have been received from the Federal Court approving this Settlement Agreement and from the Quebec Court discontinuing the Quebec Action.
- (13) **Excluded Person** means each Defendant, the directors and officers of each Defendant, the subsidiaries or affiliates of each Defendant, the entities in which each Defendant or any of that Defendant's subsidiaries or affiliates have a controlling interest and the legal representatives, heirs, successors and assigns of each of the foregoing, and any Persons who validly and timely opt out of the Federal Action in accordance with the applicable order of the Federal Court.
- (14) **Federal Action** means the Federal Action as defined in Schedule A and includes any actions subsequently consolidated into the Federal Action.
- (15) **Federal Counsel** means Siskinds LLP.
- (16) **Federal Court** means the Federal Court of Canada.
- (17) **Federal Plaintiff** means David Regan.
- (18) **Final Order** means a final order, judgment or equivalent decree entered by either of the Courts, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals.

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- (19) **Interior Molded Door** means an interior door made from a wood or fibreboard frame, a hollow or solid core and two composite doorskins. Interior Molded Doors include single slabs, bifolds and pre-hung doors.
- (20) **Masonite Defendants** means Masonite International Corporation and Masonite Corporation.
- (21) **Other Actions** means actions or proceedings, excluding the Proceedings, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
- (22) **Party and Parties** means the Settling Defendants, the Plaintiffs, and, where necessary, the Settlement Class Members.
- (23) **Person** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.
- (24) **Plaintiffs** means the Federal Plaintiff and Quebec Plaintiff.
- (25) **Proceedings** means the Federal Action and the Quebec Action, and “Proceeding” means the Federal Action or the Quebec Action, as applicable.
- (26) **Purchase Price** means the sale price paid by Settlement Class Members for Interior Molded Doors purchased during the Class Period, less any rebates, delivery or shipping charges, taxes and any other form of discounts.
- (27) **Quebec Action** means the Quebec Action as defined in Schedule A and includes any actions subsequently consolidated into the Quebec Action.
- (28) **Quebec Counsel** means Siskinds Desmeules s.e.n.c.r.l.
- (29) **Quebec Court** means the Superior Court of Quebec.
- (30) **Quebec Plaintiff** means Développement Émeraude inc.

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(31) **Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees and Class Counsel Disbursements), known or unknown, foreseen or unforeseen, suspected or unsuspected, actual or contingent, asserted or unasserted, accrued or unaccrued, liquidated or unliquidated, in law, under statute or in equity, that any of the Releasers ever had, now has or hereafter can, shall or may have, relating in any way to the purchase, sale, pricing, discounting, manufacturing, marketing, offering or distributing of Interior Molded Doors, whether purchased directly or indirectly, including as part of a residential construction or a residential project, place or dwelling, and any claims for consequential, subsequent or follow-on harm that arises after the Date of Execution in respect of any agreement, combination, conspiracy or conduct that occurred during the applicable Class Period. The Released Claims do not include: (i) claims based on negligence, personal injury, breach of contract, bailment, failure to deliver lost goods, damaged or delayed goods, product defects, breach of product warranty, securities, or similar claims between the Parties that relate to Interior Molded Doors (unless such claims allege, arise or are related to, directly or indirectly, alleged anticompetitive conduct or anticompetitive communications or conduct contrary to competition law); (ii) claims brought (whether before or after the Effective Date) outside of Canada relating to purchases of Interior Molded Doors outside of Canada; or (iii) claims brought (whether before or after the Effective Date) under laws other than those of Canada relating to purchases of Interior Molded Doors outside of Canada.

(32) **Releasees** means, jointly and severally, individually and collectively, the Settling Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, joint ventures, franchisees, dealers, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, mandataries, shareholders, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

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- (33) **Releasors** means, jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members, on behalf of themselves and any Person or entity claiming by or through them as a parent, subsidiary, affiliate, predecessor, successor, shareholder, partner, director, owner of any kind, agent, principal, employee, contractor, attorney, heir, executor, administrator, insurer, devisee, assignee, or representative of any kind, other than any Persons who validly and timely opt out of the Federal Action in accordance with the applicable order of the Federal Court.
- (34) **Settlement Agreement** means this agreement, including the recitals and schedules.
- (35) **Settlement Amount** means CAD \$1,060,000.
- (36) **Settlement Class** means all Persons in Canada who purchased Interior Molded Doors in Canada during the Class Period, except the Excluded Persons.
- (37) **Settlement Class Member** means a member of the Settlement Class.
- (38) **Settling Defendants** means JELD-WEN, Inc., JELD-WEN Holding, Inc., and JELD-WEN of Canada, Ltd.
- (39) **Trust Account** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of Siskinds LLP or the Claims Administrator, once appointed, for the benefit of the Settlement Class Members or the Settling Defendants, as provided for in this Settlement Agreement.

SECTION 2 – SETTLEMENT APPROVAL

2.1 Best Efforts

- (1) The Parties shall use their best efforts to implement this Settlement Agreement and to:
- (a) secure the prompt, complete and final dismissal with prejudice of the Federal Action as against the Settling Defendants; and
 - (b) obtain a discontinuance of the Quebec Action against the Settling Defendants.

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2.2 Motion Seeking Approval of Notice and Certification

(1) The Federal Plaintiff shall file a motion before the Federal Court, as soon as practicable after the Date of Execution, for an order approving the notices described in Section 9.1(1) and certifying the Federal Action as a class proceeding as against the Settling Defendants (for settlement purposes only).

(2) The order approving the notices described in Section 9.1(1) and certifying the Federal Action for settlement purposes shall be substantially in the form attached as Schedule B.

2.3 Motion Seeking Approval of the Settlement Agreement

(1) The Federal Plaintiff shall make best efforts to file a motion before the Federal Court for an order approving this Settlement Agreement as soon as practicable after:

- (a) the order referred to in Section 2.2(1) has been granted; and
- (b) the notices described in Section 9.1(1) have been published.

(2) The order approving this Settlement Agreement shall be substantially in the form attached as Schedule C.

(3) As soon as practicable after the Federal Court has issued an order approving this Settlement Agreement, the Quebec Plaintiffs will move to discontinue the Quebec Action against the Settling Defendants.

2.4 Pre-Motion Confidentiality

(1) Until the motion required by Section 2.2(1) is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of Counsel for the Settling Defendants and Class Counsel, as the case may be, except as stated in 2.4(2) and as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law.

(2) To the extent not previously disclosed to the Masonite Defendants and the Courts, upon the Date of Execution, Class Counsel may disclose this Settlement Agreement to the Masonite Defendants and the Courts.

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2.5 Settlement Agreement Effective

- (1) This Settlement Agreement shall only become final on the Effective Date.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

- (1) Within thirty (30) days of the Date of Execution, the Settling Defendants shall pay the Settlement Amount to Siskinds LLP, for deposit into the Trust Account.
- (2) Payment of the Settlement Amount shall be made by wire transfer. At least twenty (20) days prior to the Settlement Amount becoming due, Siskinds LLP will provide, in writing, the following information necessary to complete the wire transfer: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address and telephone number, and bank contact details.
- (3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.
- (4) The Settlement Amount shall be all-inclusive of all amounts, including, without limitation, interest, costs, Administration Expenses, Class Counsel Fees and Class Counsel Disbursements.
- (5) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement, the Proceedings, or any Other Actions.
- (6) Once a Claims Administrator has been appointed in the Proceedings, Siskinds LLP shall transfer control of the Trust Account to the Claims Administrator.
- (7) Siskinds LLP and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement.
- (8) Siskinds LLP and the Claims Administrator shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Federal Court obtained after notice to the Parties.

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3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Settlement Class and shall become and remain part of the Trust Account.

(2) Subject to Section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account. Siskinds LLP or the Claims Administrator, as appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Settling Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Settling Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Siskinds LLP or the Claims Administrator.

3.3 Cooperation

(1) If the settlement reached with the Masonite Defendants is not approved, terminates in accordance with its terms, or otherwise fails to take effect for any reason, Class Counsel shall advise Counsel for the Settling Defendants and the Parties, acting in good faith, shall confer and seek to reach an agreement on reasonable cooperation provisions.

SECTION 4 – OPTING OUT

4.1 Opt-Out Process

(1) Class Counsel will seek approval from the Federal Court of the following opt-out process as part of the motion contemplated in Section 2.2:

- (a) Persons seeking to opt out of the Federal Action must do so by sending a written election to opt out, signed by the Person or the Person's designee, by pre-paid mail, courier, or email to Class Counsel at an address to be identified in the notice described in Section 9.1(1).
- (b) Any potential Settlement Class Member who validly opts out of the Federal Action shall not be able to participate in the Federal Action and no further right to opt out of the Federal Action will be provided.
- (c) An election to opt out will only be valid if it is postmarked on or before the Opt-Out Deadline (as described in the notice described in Section 9.1(1)) to the designated address in the notice described in Section 9.1(1). When the postmark is not visible or legible, the election to opt out shall be deemed to have been postmarked seven (7) business days prior to the date that it is received by Class Counsel.
- (d) The written election to opt out must contain the following information in order to be valid:
 - (i) the Person's full name, current address and telephone number;
 - (ii) if the Person seeking to opt out is a corporation, the name of the corporation and the position of the Person submitting the request to opt out on behalf of the corporation;
 - (iii) a statement to the effect that the Person wishes to be excluded from the Federal Action; and
 - (iv) the reasons for opting out.

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- (e) Within thirty (30) days of the Opt-Out Deadline, Class Counsel shall provide to the Settling Defendants copies of the written elections to opt out.
- (f) With respect to any potential Settlement Class Member who validly opts out from the Federal Action, the Settling Defendants reserve all of their legal rights and defences.
- (g) The Plaintiffs through their respective Class Counsel expressly waive their right to opt out of the Federal Action.

SECTION 5 – TERMINATION OF SETTLEMENT AGREEMENT

5.1 Right of Termination

- (1) In the event that:
 - (a) the Federal Court declines to certify Federal Action as against the Settling Defendants for the purposes of the Settlement Agreement;
 - (b) the Federal Court declines to dismiss the Federal Action as against the Settling Defendants;
 - (c) the Federal Court declines to approve this Settlement Agreement or any material part;
 - (d) the Federal Court issues a settlement approval order that is not substantially in the form attached to this Settlement Agreement as Schedule C;
 - (e) any order approving this Settlement Agreement made by the Federal Court does not become a Final Order; or
 - (f) the Quebec Plaintiff does not obtain a discontinuance of the Quebec Action against the Settling Defendants,

the Plaintiffs and the Settling Defendants shall each have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 13.17, within thirty (30) days following an event described above.

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(2) In addition, if the Settlement Amount is not paid in accordance with Section 3.1(1), the Plaintiffs shall have the right to terminate this Settlement Agreement by delivering a written notice pursuant to Section 13.17, within thirty (30) days after such non-payment, or move before the Federal Court to enforce the terms of this Settlement Agreement.

(3) Except as provided for in Section 5.4, if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

(4) Any order, ruling or determination made or rejected by any Court with respect to:

- (a) Class Counsel Fees or Class Counsel Disbursements; or
- (b) the Distribution Protocol

shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

5.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason:

- (a) no motion to certify the Federal Action as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been decided, shall proceed;
- (b) the Parties will cooperate in seeking to have any issued order certifying the Federal Action as a class proceeding on the basis of the Settlement Agreement or approving this Settlement Agreement set aside and declared null and void and of no force or effect, and in ensuring that all Persons are estopped from asserting otherwise;
- (c) any prior certification of the Federal Action as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Class and the Common Issue pursuant to this Settlement Agreement, shall be without

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prejudice to any position that any of the Parties or Releasees may take on any issue in the Proceedings, or in any Other Actions or other litigation; and

- (d) within ten (10) days of such termination having occurred, Class Counsel shall make reasonable efforts to destroy all documents or other materials provided by the Settling Defendants and/or Counsel for the Settling Defendants under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Settling Defendants and/or Counsel for the Settling Defendants and, to the extent Class Counsel has disclosed any documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants to any other Person, shall make reasonable efforts to recover and destroy such documents or information. Class Counsel shall provide Counsel for the Settling Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this Section 5.2 shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by the Settling Defendants and/or Counsel for the Settling Defendants, or received from the Settling Defendants and/or Counsel for the Settling Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the relevant Settling Defendants. Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel derived from such documents or information.

5.3 Allocation of Settlement Amount Following Termination

- (1) If the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, Siskinds LLP shall, within thirty (30) days of the written notice pursuant to Section 5.1(1), return to the Settling Defendants the amount they have paid to Siskinds LLP, plus all accrued interest thereon, but less the costs of notices required by Section 9.1(1) and any translations required by Section 13.11.

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5.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the provisions of Sections 3.1(7), 3.2(3), 5.1(3), 5.2, 5.3, 5.4, 7.1, 7.2, and 9.1(2), and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of Sections 3.1(7), 3.2(3), 5.1(3), 5.2, 5.3, 5.4, 7.1, 7.2, and 9.1(2) within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 6 – RELEASES AND DISMISSALS

6.1 Release of Releasees

(1) Upon the Effective Date, subject to Section 6.3, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in the Settlement Agreement, the Releasers forever and absolutely release and forever discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have.

(2) The Plaintiffs and Settlement Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.

(3) Notwithstanding any of the foregoing, the releases granted pursuant to this Section 6.1 shall be deemed partial for the purposes of article 1687 and following the *Civil Code of Quebec*, shall inure only to the benefit of the Releasees and shall not preclude, foreclose or otherwise limit the rights of Settlement Class Members who are residents of Quebec against unnamed alleged co-conspirators that are not Releasees.

6.2 Covenant Not to Sue

(1) Upon the Effective Date, and notwithstanding Section 6.1, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all

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other tortfeasors, the Releasors do not release the Releasees but instead the Releasors covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims. For greater certainty, Section 6.1(3) continues to apply to residents of Quebec.

6.3 No Further Claims

(1) Upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee, whether pursuant to any provincial negligence acts or other legislation or at common law or equity in respect of any Released Claim, except, in the event that the settlement reached with the Masonite Defendants is not approved, terminates in accordance with its terms, or otherwise fails to take effect for any reason, the continuation of the Proceedings against the Masonite Defendants or, if the Proceedings are not certified or authorized with respect to the Masonite Defendants, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against the Masonite Defendants. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

6.4 Dismissal and Discontinuance

(1) Upon the Effective Date, the Federal Action shall be dismissed with prejudice and without costs as against the Settling Defendants.

(2) As soon as practicable after the Federal Court has issued an order approving this Settlement Agreement, the Quebec Action shall be discontinued against the Settling Defendants.

6.5 Dismissal of Other Actions

(1) Upon the Effective Date, each member of the Settlement Class shall be deemed to irrevocably consent to the dismissal, without costs, with prejudice and without reservation, of his, her or its Other Actions against the Releasees, to the extent such Other Actions relate to Released Claims.

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(2) Upon the Effective Date, all Other Actions commenced in Federal Court by any Settlement Class Member, to the extent such Other Actions relate to Released Claims, shall be dismissed as against the Releasees, without costs, with prejudice and without reservation.

6.6 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Releasors against any Person other than the Releasees.

6.7 Material Term

(1) The releases, covenants, dismissals, reservation of rights, and granting of consent contemplated in this Section are material terms of the Settlement Agreement and the failure of the Federal Court to approve the releases, covenants, dismissals, reservation of rights, and granting of consent contemplated herein shall give rise to a right of termination pursuant to Section 5.1 of the Settlement Agreement.

SECTION 7 – EFFECT OF SETTLEMENT

7.1 No Admission of Liability

(1) The Plaintiffs and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees, or of the truth of any of the claims or allegations contained in the Proceedings, any Other Actions, or any other pleading filed by the Plaintiffs.

7.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement

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Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

7.3 No Further Litigation

(1) No Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person against the Settling Defendants which relates to or arises from the Released Claims, except in the event that the settlement reached with the Masonite Defendants is not approved, terminates in accordance with its terms, or otherwise fails to take effect for any reason, in relation to the continued prosecution of the Proceedings against the Masonite Defendants or, if the Proceedings are not certified or authorized, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against the Masonite Defendants. Moreover, no Class Counsel nor anyone currently or hereafter employed by or a partner with Class Counsel may divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information was, is or becomes otherwise publicly available or unless ordered to do so by a court.

SECTION 8- CERTIFICATION OR AUTHORIZATION FOR SETTLEMENT PURPOSES ONLY

(1) The Parties agree that the Federal Action shall be certified as a class proceeding as against the Settling Defendants solely for purposes of settlement of the Federal Action and the approval of this Settlement Agreement by the Federal Court.

(2) The Federal Plaintiff agrees that, in the motion for certification of the Federal Action as a class proceeding for settlement purposes and for the approval of this Settlement Agreement, the only common issue that he will seek to define is the Common Issue and the only class that he will assert is the Settlement Class.

SECTION 9 – NOTICE TO SETTLEMENT CLASS

9.1 Notices Required

(1) The proposed Settlement Class shall be given a single notice of: (i) the certification of the Federal Action as a class proceeding as against the Settling Defendants for settlement purposes; (ii) the hearing at which the Federal Court will be asked to approve the Settlement Agreement; and (iii) if it is brought with the hearing to approve the Settlement Agreement, the hearing to approve Class Counsel Fees and Class Counsel Disbursements.

(2) If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the proposed Settlement Class shall be given notice of such event.

9.2 Form and Distribution of Notices

(1) The notices shall be in a form agreed upon by the Parties and approved by the Federal Court or, if the Parties cannot agree on the form of the notices, the notices shall be in a form ordered by the Federal Court.

(2) The notices shall be disseminated by a method agreed upon by the Parties and approved by the Federal Court or, if the Parties cannot agree on a method for disseminating the notices, the notices shall be disseminated by a method ordered by the Federal Court.

SECTION 10 – ADMINISTRATION AND IMPLEMENTATION

10.1 Mechanics of Administration

(1) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by the Federal Court on motions brought by Class Counsel.

10.2 Information and Assistance

(1) The Settling Defendants will make reasonable efforts to provide to Class Counsel a list of the names and addresses (including any relevant email addresses) of Persons in Canada who purchased Interior Molded Doors directly from the Settling Defendants during the Class Period and the Purchase Price paid by each such Person for such purchases, to the extent such information is reasonably available and to the extent not previously provided. The information shall be delivered in a format readily available to the Settling Defendants.

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(2) The name and address information required by Section 10.2(1) shall be delivered to Class Counsel within thirty (30) days of the Date of Execution, but no later than ten (10) days after the order required by Section 2.2(1) has been obtained, or at a time mutually agreed upon by the Parties. The Purchase Price information required by Section 10.2(1) shall be delivered to Class Counsel within sixty (60) days of the Effective Date, or at a time mutually agreed upon by the Parties.

(3) Class Counsel may use the information provided under Section 10.2(1):

- (a) to facilitate the dissemination of the notices required in Section 9.1;
- (b) to advise Persons in Canada who purchased Interior Molded Doors directly from the Settling Defendants during the Class Period of any subsequent settlement agreement reached in the Proceedings, any related approval hearings, and any other major steps in the Proceedings; and
- (c) to facilitate the claims administration process with respect to this Settlement Agreement and any other settlement agreement(s) achieved or court awards issued in the Proceedings.

(4) All information provided by the Settling Defendants pursuant to Section 10.2(1) shall be kept confidential, except that Class Counsel may disclose all information provided by the Settling Defendants pursuant to Section 10.2(1) to any Court-appointed notice provider and/or the Claims Administrator, to the extent reasonably necessary for the purposes enumerated in Section 10.2(3). Any Court-appointed notice provider and/or the Claims Administrator shall be bound by the same confidentiality obligations set out herein. If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, all information provided by the Settling Defendants pursuant to Section 10.2(1) shall be dealt with in accordance with Section 5.2(1)(d) and no record of the information so provided shall be retained by Class Counsel, any Court-appointed notice-provider and/or the Claims Administrator in any form whatsoever.

(5) The Settling Defendants will make themselves reasonably available to respond to questions respecting the information provided pursuant to Section 10.2(1) from Class Counsel or any Court-appointed notice provider and/or the Claims Administrator. The Settling Defendants' obligations to make themselves reasonably available to respond to questions as particularized in this Section

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shall not be affected by the release provisions contained in Section 6 of this Settlement Agreement. Unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, the Settling Defendants' obligations to cooperate pursuant to this Section 10.2 shall cease when the Proceedings are resolved as against all Defendants and all settlement funds or court awards have been distributed.

(6) The Settling Defendants shall bear no liability with respect to the completeness or accuracy of the information provided pursuant to this Section 10.2.

SECTION 11– DISTRIBUTION OF THE SETTLEMENT AMOUNT AND ACCRUED INTEREST

11.1 Distribution Protocol

(1) At a time within the discretion of Class Counsel, but on notice to the Settling Defendants, Class Counsel will bring a motion seeking an order from the Federal Court approving the Distribution Protocol. The motion can be brought before the Effective Date, but the order approving the Distribution Protocol shall be conditional on the Effective Date occurring.

(2) The Distribution Protocol shall require Settlement Class Members seeking compensation to give credit for any compensation received through other proceedings or in private out-of-class settlements, unless by such proceedings or private out-of-class settlements the Settlement Class Member's claim was released in its entirety, in which case the Settlement Class Member shall be deemed ineligible for any further compensation.

(3) In addition, the Distribution Protocol shall treat residents of Quebec in the equivalent manner to residents elsewhere in Canada and must comply with the requirements of Quebec law, including in respect of remittances to the Fonds d'Aide aux actions collectives and in case of any remaining balance to be allocated *cy pres* to one or more recipients to be approved by the Federal Court, *The Act Respecting the Fonds d'aide aux actions collectives*, CQLR c F-3.2.0.1.1 will apply to the portion of any remaining balance, if any, attributable to Settlement Class Members resident in Quebec.

11.2 No Responsibility for Administration or Fees

(1) Except as otherwise provided for in section 5.3(1) of this Settlement Agreement, the Settling Defendants shall not have any responsibility, financial obligations or liability whatsoever

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with respect to the administration of the Settlement Agreement or the investment, distribution or administration of monies in the Trust Account including, but not limited to Administration Expenses.

SECTION 12 – CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES

12.1 Responsibility for Fees, Disbursements and Taxes

(1) The Settling Defendants shall not be liable for any Class Counsel Fees, Class Counsel Disbursements, or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiffs or the Settlement Class Members, or any lien of any Person on any payment to any Settlement Class Member from the Settlement Amount.

12.2 Responsibility for Costs of Notices and Translation

(1) Siskinds LLP shall pay the costs of the notices required by Section 9 and any costs of translation required by Section 13.11 from the Trust Account, as they become due.

12.3 Court Approval for Class Counsel Fees and Disbursements

(1) Class Counsel may seek the Federal Court's approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the Trust Account after the Effective Date. Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date. No other Class Counsel Disbursements or Class Counsel Fees shall be paid from the Trust Account prior to the Effective Date.

SECTION 13 – MISCELLANEOUS

13.1 Motions for Directions

(1) Class Counsel or the Settling Defendants may apply to the Federal Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties, except for those applications concerned solely with the implementation and administration of the Distribution Protocol.

13.2 Headings, etc.

- (1) In this Settlement Agreement:
 - (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
 - (b) the terms “this Settlement Agreement,” “hereof,” “hereunder,” “herein,” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

13.3 Computation of Time

- (1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,
 - (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
 - (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

13.4 Ongoing Jurisdiction

- (1) The Federal Court shall exercise jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement and the Trust Account, and the Plaintiffs, Settlement Class Members and Settling Defendants attorn to the jurisdiction of the Federal Court for such purposes.

13.5 Governing Law

- (1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

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13.6 Entire Agreement

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

13.7 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, subject to approval of the Federal Court where required.

13.8 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Settlement Class Members, the Settling Defendants, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all Releasors and each and every covenant and agreement made herein by the Settling Defendants shall be binding upon all of the Releasees.

13.9 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and an electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

13.10 Negotiated Agreement

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this

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Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

13.11 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé et consenti à ce que la présente entente de règlement et tous les documents connexes soient rédigés en anglais*. Nevertheless, Class Counsel and/or a translation firm selected by Class Counsel may prepare a French translation of the Settlement Agreement and all related documents, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

13.12 Transaction

(1) The present Settlement Agreement constitutes a transaction in accordance with Articles 2631 and following of the *Civil Code of Quebec*, and the Parties are hereby renouncing any errors of fact, of law and/or of calculation.

13.13 Recitals

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

13.14 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

13.15 Acknowledgements

- (1) Each of the Parties hereby affirms and acknowledges that:
- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
 - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;

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- (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

13.16 Authorized Signatures

- (1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

13.17 Notice

- (1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another Party, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiffs and for Class Counsel in the Proceedings:

Charles M. Wright and Linda Visser
SISKINDS LLP
Barristers and Solicitors
275 Dundas Street, Unit 1
London, ON N6B 3L1
Tel: 519.672.2121
Fax: 519.672.6065
Email: charles.wright@siskinds.com
linda.visser@siskinds.com

Caroline Perrault
SISKINDS DESMEULES s.e.n.c.r.l.
Les promenades du Vieux Quebec
43 rue Buade, bureau 320
Quebec City, QC G1R 4A2
Tel: 418.694.2009
Fax: 418.694.0281
Email: caroline.perrault@siskinds.com

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For the Settling Defendants:

Katherine Kay
STIKEMAN ELLIOTT LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9
Tel: 416.8695507
Fax: 416.947.0866
Email: kkay@stikeman.com

13.18 Date of Execution

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

DAVID REGAN on his own behalf and on behalf of the Settlement Class that he proposes to represent, by his counsel

Name of Authorized Signatory: Linda Visser

Signature of Authorized Signatory: 

Siskinds LLP
Federal Counsel

DÉVELOPPEMENT ÉMERAUDE INC on its own behalf, by their counsel

Name of Authorized Signatory: Caroline Perrault

Signature of Authorized Signatory: 

Siskinds Desmeules s.e.n.c.r.l.
Quebec Counsel

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**JELD-WEN, INC., JELD-WEN HOLDING, INC., and JELD-WEN OF CANADA,
LTD.** by their counsel

Name of Authorized Signatory:

Katherine L. Kay

Signature of Authorized Signatory:

Stikeman Elliott LLP per Katherine L. Kay
Stikeman Elliott LLP
Counsel for the Settling Defendants

SCHEDULE A
Proceedings

Proceedings	Plaintiffs	Defendants
Federal Court File No. T-1049-20	David Regan	Masonite International Corporation, Masonite Corporation, JELD-WEN, Inc., JELD-WEN Holding, Inc., and JELD-WEN of Canada, Ltd.
Cour Supérieure du Québec District de Québec No: 200-06-000247-208	Développement Émeraude Inc.	JELD-WEN, Inc., JELD-WEN Holding, Inc., JELD-WEN of Canada, Ltd., Masonite Corporation and Corporation Internationale Masonite

**SCHEDULE B
FEDERAL COURT**

Court File No.: T-1049-20

Toronto, Ontario, [●]

PRESENT: The Honourable Justice Little

PROPOSED CLASS PROCEEDING

BETWEEN:

DAVID REGAN

Plaintiff

and

MASONITE INTERNATIONAL CORPORATION, MASONITE CORPORATION, JELD-
WEN, INC., JELD-WEN HOLDING, INC. and JELD-WEN OF CANADA, LTD

Defendants

ORDER

- JELD-WEN Notice Approval and Consent Certification -

THIS MOTION, made by the Plaintiff, David Regan, for an Order approving the form and content of the notices of certification and settlement approval hearing (the “Notices”) and the method of dissemination of the Notices, and certifying this proceeding as a class proceeding for settlement purposes only against JELD-WEN, Inc., JELD-WEN Holding, Inc. and JELD-WEN of Canada, Ltd. (the “Settling Defendants”) was heard this day at the Federal Court, 180 Queen Street West, Toronto, Ontario.

ON READING the materials filed, including the settlement agreement with the Settling Defendants dated as of ●, 2024 attached to this Order as Schedule “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Parties;

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AND ON BEING ADVISED that the Federal Plaintiff and the Settling Defendants consent to this Order, and the Masonite Defendants take no position;

THIS COURT ORDERS that:

1. For the purposes of this Order, except to the extent they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. This action is certified as a class proceeding as against the Settling Defendants for settlement purposes only.
3. The “Settlement Class” is defined as follows:

All Persons in Canada who purchased Interior Molded Doors in Canada during the Class Period, except the Excluded Persons.

4. David Regan is hereby appointed as the representative plaintiff on behalf of the Settlement Class.
5. Siskinds LLP is hereby appointed as Class Counsel in this action.
6. The following claims are asserted on behalf of the Settlement Class:
 - (a) Claims for unlawful conspiracy pursuant to s. 36 of the *Competition Act*.
7. The relief sought by the Settlement Class is:
 - (a) Damages in the amount of any unlawful overcharge.

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8. The following issue is common to the Settlement Class:

Did the Settling Defendants conspire to fix, maintain, increase, or control the prices of Interior Molded Doors?

9. Settlement Class Members shall be given notice of the settlement approval hearing and the certification of this action in substantially the forms set out in Schedules “B” to “D” and in the manner set out in Schedule “E”.
10. Putative members of the Settlement Class may opt out of the Federal Action by sending a written request to opt out to Class Counsel at the address identified in the long form notice of settlement approval hearing on or before the Opt-Out Deadline. The written election to opt out must be signed by the Person or the Person’s designee and must include the following information:
- (a) the Person’s full name, current mailing and email address and telephone number;
 - (b) if the Person seeking to opt out is a corporation, the name of the corporation and the position of the Person submitting the request to opt out on behalf of the corporation;
 - (c) a statement to the effect that the Person wishes to be excluded from the Action; and
 - (d) the reason(s) for opting out.
11. Where the postmark is not visible or legible, the request to opt out shall be deemed to have been postmarked seven (7) business days prior to the date that it is received by Class Counsel.

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12. Any putative Settlement Class member who validly opts out of the Federal Action shall have no further right to participate in the Federal Action or to share in the distribution of any funds received as a result of a judgment of settlement in the Federal Action.
13. No further right to opt out of the Federal Action will be provided.
14. Within thirty (30) days of the Opt-Out Deadline, Class Counsel shall provide to the Settling Defendants copies of the written elections to opt out.
15. If the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, this Order, including certification for settlement purposes only, shall be set aside and declared null and void and of no force or effect without the need for any further order of this Court.

The Honourable Justice Little

**SCHEDULE C
FEDERAL COURT**

Court File No.: T-1049-20

Toronto, Ontario, [●]

PRESENT: The Honourable Justice Little

CLASS PROCEEDING

BETWEEN:

DAVID REGAN

Plaintiff

and

MASONITE INTERNATIONAL CORPORATION, MASONITE CORPORATION, JELD-
WEN, INC., JELD-WEN HOLDING, INC. and JELD-WEN OF CANADA, LTD

Defendants

**ORDER
- JELD-WEN Settlement Approval -**

THIS MOTION, made by the Plaintiff, David Regan, for an Order approving the settlement agreement entered into with JELD-WEN, Inc., JELD-WEN Holding, Inc. and JELD-WEN of Canada, Ltd. (collectively, the “Settling Defendants”) and dismissing this action as against the Settling Defendants, was heard this day at the Federal Court, 180 Queen Street West, Toronto, Ontario.

AND ON READING the materials filed, including the settlement agreement dated ●, 2024, attached to this Order as Schedule “A” (the “Settlement Agreement”), and on hearing the submissions of counsel for the Federal Plaintiff and counsel for the Settling Defendants;

AND ON BEING ADVISED that the deadline for opting out of this action has passed, and ● Persons validly exercised the right to opt out;

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AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been • written objections to the Settlement Agreement;

AND ON BEING ADVISED that the Federal Plaintiff and the Settling Defendants consent to this Order, and the Masonite Defendants take no position:

THIS COURT ORDERS that:

1. For the purposes of this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable and in the best interests of the Settlement Class.
4. The Settlement Agreement is hereby approved pursuant to *Federal Court Rules*, SOR/98-106, Rule 334.29 and shall be implemented and enforced in accordance with its terms.
5. Upon the Effective Date, each member of the Settlement Class shall be deemed to have consented to the dismissal as against the Releasees of any Other Actions they have commenced, without costs and with prejudice.
6. Upon the Effective Date, each Other Action commenced in the Federal Court by any member of the Settlement Class shall be and is hereby dismissed against the Releasees, without costs and with prejudice.

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7. Upon the Effective Date, subject to paragraph 9, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
8. Upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee, whether pursuant to any provincial negligence acts or other legislation or at common law or equity in respect of any Released Claim, except, in the event that the settlement reached with the Masonite Defendants is not approved, is terminated, , or otherwise fails to take effect for any reason, the continuation of the Proceedings against the Masonite Defendants or, if the Proceedings are not certified or authorized with respect to the Masonite Defendants, the continuation of the claims asserted in the Proceedings on an individual basis or otherwise against the Masonite Defendants.
9. The use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those members of the Settlement Class who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.
10. Upon the Effective Date, each member of the Settlement Class who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors covenants and undertakes not to make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

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11. For purposes of administration and enforcement of the Settlement Agreement and this Order, the Federal Court will retain an ongoing supervisory role and the Settling Defendants attorn to the jurisdiction of the Federal Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order.
12. Except as provided herein, this Order does not affect any claims or causes of action that any members of the Settlement Class has or may have in the Federal Action against any named or unnamed co-conspirators who are not Releasees.
13. Other than that which has been provided in the Settlement Agreement, no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement; to administration, investment, or distribution of the Trust Account; or to the Distribution Protocol.
14. In the event that the Settlement Agreement is terminated or otherwise fails to take effect for any reason, this Order shall be declared null and void and of no force or effect without the need for any further order of this Court but with notice to the Settlement Class.
15. Terms of this Order shall not be effective unless and until the Quebec Action has been discontinued against the Settling Defendants.
16. Upon the Effective Date, the Federal Action is hereby dismissed as against the Settling Defendants, without costs and with prejudice.

The Honourable Justice Little

Schedule "B"

INTERIOR MOLDED DOORS CLASS ACTIONS
NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

This notice may affect your legal rights. Please read carefully.

THIS NOTICE IS DIRECTED TO:

All persons in Canada who purchased Interior Molded Doors in Canada from March 1, 2014 to [date of certification], except Excluded Person (the "Settlement Class").

Interior Molded Door means an interior door made from a wood or fiberboard frame, a hollow or solid core, and two composite doorskins. Interior Molded Doors include single slabs, bifolds and pre-hung doors.

Excluded Persons means any person who opts out of the class action and entities related to the Masonite or JELD-WEN defendants.

A. Nature of the Class Action

The plaintiff commenced a proposed class proceeding in Federal Court alleging that the Masonite and JELD-WEN defendants and unnamed co-conspirators participated in an unlawful conspiracy to fix, raise, maintain, and/or control the price of Interior Molded Doors contrary to the *Competition Act*. The defendants deny that they engaged in any unlawful conduct and deny any liability whatsoever in respect of the plaintiff's claims. The Federal Court has not decided who is right. The plaintiff and defendants have reached proposed settlements to avoid the uncertainties, risks, and costs of further litigation. The representative plaintiff and Class Counsel consider the settlements to be fair, reasonable and in the best interests of the Settlement Class.

The class action was certified on behalf of the Settlement Class by the Federal Court by consent order of the Honourable Justice Little on XX, 2024. The certification is conditional on the settlements being approved by the Federal Court. David Regan has been appointed as representative plaintiff for the Settlement Class.

B. Proposed Settlements

Proposed settlements have been reached with all defendants in this action:

- Masonite International Corporation and Masonite Corporation for CDN\$1,151,920; and
- JELD-WEN, Inc., JELD-WEN Holding, Inc., and JELD-WEN of Canada, Ltd. for CDN\$1,060,000.

The settlements are compromises of disputed claims. If approved, the settlements will settle, extinguish, and bar all claims relating in any way to or arising out of the class action against the defendants and their related entities. The defendants do not admit any wrongdoing or liability and disagree with the allegations in the lawsuit.

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The Federal Court still must decide whether to approve the settlements. (See Part C below)

The settlements achieved in this litigation total CDN\$2,211,920. The settlement funds, plus any accrued interest, less any deductions approved by the Federal Court will be distributed to eligible Settlement Class members either directly or indirectly through a *cy pres* (charitable) payment to Habitat for Humanity. Class Counsel will be seeking approval of the following deductions:

- CDN\$381,556.38 in outstanding disbursements, plus applicable taxes in the amount of CDN\$49,602.33. The largest disbursement relates to expert fees for the plaintiff's certification expert;
- Class Counsel fees of 25% of the settlement amounts, totaling CDN\$522,980, plus applicable taxes in the amount of CDN\$71,887.40; and
- any out-of-pocket expenses incurred by Class Counsel in administering the settlements, including the cost of notice and the cost of issuing payments, estimated at CDN\$3,825. There will be no fees associated with the distribution because Class Counsel proposes to self-administer the distribution to save costs.

C. Proposed Distribution of Settlement Funds

Direct Payments

As part of the settlement approval hearing, the Federal Court will be asked to approve a protocol for the distribution of the settlement funds, plus interest and less the deductions set out above. See the proposed distribution protocol online at www.siskinds.com/doors.

Subject to further directions of the Federal Court, to qualify for payments:

- the Settlement Class Member must be disclosed in the Defendants' sales data (provided in accordance with terms of the Settlement Agreements) as having purchased Interior Molded Doors directly from the Defendants between March 1, 2014 and December 31, 2018. Class Counsel consider this period to be the stronger liability case and therefore proposes only to compensate purchases during this period (as opposed to the full class period of March 1, 2014 to [date of certification]). JELD-WEN and Masonite deny any liability, including during this period;
- the Settlement Class Member's relevant purchases between March 1, 2014 and December 31, 2018 must equal at least CDN\$400,000; and
- the Settlement Class Member must file a valid and timely Claim Form.

After the *cy pres* payment (see below), approximately CDN\$1,052,068.89 will be available for direct payments to qualifying Settlement Class Members. Direct payments will be made to qualifying Settlement Class Members *pro rata* (proportionally) based on the value of the eligible Settlement Class Member's relevant purchases as against the total value of all eligible Settlement Class Members' relevant purchases.

The compensation amount payable to individual Settlement Class members cannot be reliably estimated at this time because this will depend on the number of qualifying Settlement Class Members, the number of Settlement Class Members who file a claim and the value of their claims. This Notice of Hearing is being sent to [number] direct purchaser customers of the Defendants, but not all these customers will be eligible for payment or file a claim.

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Cy Pres (Charitable) Payment

Recognizing that not all Settlement Class members are eligible to submit a claim, the proposed distribution protocol provides that a *cy pres* distribution in the amount of CDN\$100,000 will be made to Habitat for Humanity.

D. Settlement Approval Hearing and Objecting to the Settlements

The settlements remain subject to approval by the Federal Court. The application for approval of the settlements will be heard by the Federal Court on [date], 2024, at [time], by videoconference. At this hearing, the Federal Court will determine whether the settlements are fair, reasonable, and in the best interests of the Settlement Class. The Federal Court will also be asked to determine whether the proposed distribution protocol is fair, reasonable, and in the best interests of the Settlement Class.

Settlement Class members who do not oppose the settlements, the proposed distribution protocol, and/or Class Counsel fees are not required to appear at the settlement approval hearing or take any other action at this time. Settlement Class members who consider it desirable or necessary to seek the advice and guidance of their own lawyers may do so at their own expense.

Objections

At the settlement approval hearing, the Federal Court will consider any objections to the settlements, the proposed distribution protocol, and/or Class Counsel fees by individual Settlement Class members. Objections must be submitted by email to doors@siskinds.com or mail to the address listed in part F below postmarked no later than [date], 2024.

A written objection should include the following information:

- a. the objector's name, current mailing address, telephone number, and email address;
- b. the reason why the objector believes that they are a Settlement Class member;
- c. a brief statement of the nature of and reasons for the objection; and
- d. whether the objector intends to appear at the hearing in person or by counsel. If the objector is appearing by counsel, the name, address, telephone number, and email address of counsel.

The written submissions can be provided in English or French (if necessary, an unofficial translation will be provided to the Courts).

Class Counsel will provide a copy of any written submissions to the Federal Court.

Attending the Settlement Approval Hearing Virtually

Settlement class members may (but do not need to) attend the settlement approval hearing.

You may attend the settlement approval hearing **virtually on [date] at [time]**, as an observer or to make oral submissions to the Court. If you want to make oral submissions, you must indicate that in your written objection.

If you wish to attend and/or make oral submissions, please contact Class Counsel no later than [date].

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E. Excluding Yourself from the Settlement

If you do not want to participate in the class action, you must send a written request to opt out by email to doors@siskinds.com or mail to the address listed in part F below postmarked no later than [date]. The written request to opt out must contain the following information:

- a. the Person's full name, current address and telephone number;
- b. if the Person seeking to opt out is a corporation, the name of the corporation and the position of the Person submitting the request to opt out on behalf of the corporation;
- c. a statement to the effect that the Person wishes to be excluded from the Federal Action; and
- d. the reason(s) for opting out.

If you opt out by [date], you may be able to bring your own lawsuit against the defendants, but you will not be entitled to participate in the settlement.

All Settlement Class members will be bound by the terms of the settlements, unless they opt out of this class action.

If you exclude yourself from the settlements, you may not object to the settlements. This is because settlements no longer affect you.

F. The Lawyers Representing You

The law firms of Siskinds LLP and Siskinds Desmeules s.e.n.c.r.l. represents the Settlement Class. They can be reached at:

Linda Visser Siskinds LLP 275 Dundas Street, Unit 1, P.O. Box 2520, London ON N6B 3L1 1-800-461-6166 doors@siskinds.com	Caroline Perrault Siskinds Desmeules s.e.n.c.r.l. 43 de Buade Street, unit 320 Quebec City, QC G1R 4A2 1-877-735-3842 recours@siskinds.com
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If you wish to remain a Settlement Class member, you do not need to hire your own lawyer because Class Counsel is working on your behalf. You do not have to pay Class Counsel out-of-pocket. Class Counsel will be asking that the Federal Court approve legal fees up to 25% of the settlement funds (CDN\$522,980), plus disbursements and taxes. Any approved legal fees and disbursements will be paid out of the settlement fund.

If you exclude yourself from the Settlement Class (including because you wish to pursue our own case separate from the class action), these lawyers will no longer represent you. You may desire or need to hire your own lawyer if you wish to pursue your own lawsuit against the defendants.

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G. More Information

This notice is given to you on the basis that you may be a Settlement Class member whose rights could be affected by the class action. This notice should not be understood as an expression of any opinion of the Federal Court as to the merits of any claim or defences asserted in the class action. Its sole purpose is to inform you of the class action so that you may decide what steps to take in relation to it.

This notice contains a summary of the class action and the settlements. Further details regarding the class action and the settlements can be found on the following website: www.siskinds.com/doors.

If you have questions that are not answered online, please contact Class Counsel identified above.

This notice contains a summary of some of the terms of the Settlement Agreements. If there is a conflict between the provisions of this notice and the Settlement Agreements, including the schedules to the Settlement Agreements, the terms of the Settlement Agreements and/or the Federal Court orders shall prevail.

DO NOT CONTACT THE FEDERAL COURT FOR INFORMATION

**THIS NOTICE HAS BEEN APPROVED BY
THE FEDERAL COURT OF CANADA**

Schedule "C"

**INTERIOR MOLDED DOORS CLASS ACTIONS
CANADIAN NOTICE PLAN
NOTICE OF CONSENT CERTIFICATION AND SETTLEMENT APPROVAL HEARING**

1. For the purposes of this Notice Plan, the definitions set out on the Settlement Agreements apply to and are incorporated into this Notice Plan.
2. The proposed Notice Plan has been designed to provide the best notice practicable.
3. There will be no other forms of notice other than what is provided for herein, except as agreed to by the Parties or as ordered by the Federal Court.

Direct Notice

4. Class Counsel will effectuate direct individual notice to the Persons listed below. Where an email address is available, the notice will be sent by email (in English and French). Where an email address is not available, the notice will be sent by direct mail. Where the address is in Quebec, the notice will be sent in English and French. Where the address is outside of Quebec, the notice will be sent in English only:
 - (a) The direct purchaser customers of the Settling Defendants, to the extent such information is provided to Class Counsel in accordance with the terms of the Settlement Agreements; and
 - (b) Anyone who registered with Class Counsel to receive updates on the status of the litigations.
5. Class Counsel will track any returned undeliverable emails and will promptly send the notice by direct mail (where a mailing address is available).
6. Class Counsel will track any returned undeliverable mail by Canada Post and will promptly re-mail any returned with a forward address.

Indirect Notice

7. Class Counsel will distribute a press release (in English and French) nationwide to media outlets and publications through publication on Canada Newswire. The press release will also be distributed (in English and French) to distribution lists targeted towards the building and housing industry. The press release will direct readers to Class Counsel's website for additional information.
8. Class Counsel will provide a copy of the Notice of Certification and Settlement Approval Hearing (in English and French) to the following industry associations requesting voluntary distribution to their membership:
 - (a) Consumers' Council of Canada;
 - (b) Retail Council of Canada;
 - (c) Conseil québécois du commerce de détail (Quebec Council of Retail Trade);
 - (d) Canadian Construction Association; and
 - (e) Canadian Home Builders' Association.

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9. Class Counsel will post a copy of the Notice of Certification and Settlement Approval Hearing (in English and French) on their website and share the post through their social media accounts.
10. Class Counsel will post online advertisements (in English and French) over a 60-day period on Facebook and Instagram at a budget of up to CDN\$25 per day.