

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

STEVEN DICKERSON, ROBERT HESTER,)
NANCY ROBERTS, KATIE EVANS MOSS)
and RICHARD SANCHEZ, on behalf of)
themselves and all others similarly situated,)

Plaintiffs,)

vs.)

YORK INTERNATIONAL CORPORATION)
and JOHNSON CONTROLS INC.,)

Defendants.)

) Case: 1:15-CV-01105 (CCC)

**PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF
AMENDED SETTLEMENT AGREEMENT**

Plaintiffs respectfully submit this Motion for Preliminary Approval of the Amended Settlement Agreement (“Settlement Agreement” or “Settlement”) they have reached with Defendants York International Corporation and Johnson Controls Inc. (together with Johnson Controls International plc hereinafter collectively, “JCI” or “Defendants”).

For the reasons explained in the brief in support of this motion with attached proposed Settlement Agreement, Plaintiffs respectfully request that the Court grant their motion for preliminary approval of the Settlement; provisionally certify, for settlement purposes only, the Settlement Class; appoint Class Representatives and

Class Counsel; and authorize dissemination of the Notice Plan to Settlement Class Members, in the form and manner described above and in accordance with the Notice Plan and other documents submitted as exhibits herewith. A proposed Preliminary Approval Order is being submitted herewith.

Dated: March 8, 2017

Respectfully submitted,

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On behalf of Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was served by ECF on all known parties on this 8th day of March, 2017.

/s/ Gregory F. Coleman
Gregory F. Coleman

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Plaintiffs,)

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YORK INTERNATIONAL CORPORATION)
and JOHNSON CONTROLS INC.,)

Defendants.)

) Case: 1:15-CV-01105 (CCC)

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL
OF AMENDED SETTLEMENT AGREEMENT**

This matter is before the Court on Plaintiffs’ Motion for Preliminary Approval of the Amended Settlement Agreement that Plaintiffs have reached with Defendants York International Corporation and Johnson Controls Inc. (together with Johnson Controls International plc hereinafter collectively, “JCI” or “Defendants”). Having reviewed the Motion, the Amended Settlement Agreement, and all exhibits attached thereto, and papers submitted in support therewith, as well as all of the pleadings and the record in this Action, the Court hereby ORDERS as follows:

1. The definitions in the Amended Settlement Agreement are hereby

incorporated as if fully set forth in this Order, and unless otherwise specified herein capitalized terms shall have the meanings attributed to them in the Amended Settlement Agreement.

2. The Court finds that the terms of the Amended Settlement Agreement should be preliminarily approved, subject to final determination by the Court following notice to the proposed Settlement Class, consideration of additional submissions of the Parties and of members of the Settlement Class, and a Final Approval Hearing, as provided for below. The Court preliminarily finds that the proposed Settlement: (a) appears to be fair, adequate, and reasonable; (b) is the product of serious, informed, arm's-length non-collusive negotiations; (c) has no obvious deficiencies; (d) does not improperly grant preferential treatment to the Class Representatives; (e) falls sufficiently within the range of possible approval; and (f) does not disclose grounds to doubt its fairness. Therefore, notice of the proposed Settlement should be disseminated in accordance with the provisions of this Order.

3. For purposes of this proposed Settlement only, and pending final approval of the Amended Settlement Agreement after a Final Approval Hearing, the Court preliminarily finds that the prerequisites for a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure have been met, and therefore the Court provisionally certifies a Settlement Class consisting of:

all individuals and entities in the United States who during the time period from January 1, 2008 to [Date of Preliminary Approval Order] purchased an uncoated York, Fraser-Johnston, Luxaire, Coleman, Evcon, Guardian, Champion, or Dayton brand copper evaporator coil or copper condenser coil manufactured and sold by JCI or any of its Affiliates, separately or as part of a split system or packaged residential air handler, condensing unit, or HVAC unit, that is covered by the original limited five year warranty or extended ten year warranty.

Excluded from the Settlement Class are: (1) the judge to whom this Action is assigned and any member of the judge's immediate family; and (2) the Mediator and any member of her immediate family.

4. The Court preliminarily finds that certification of the proposed Settlement Class is warranted for purposes of this proposed Settlement because: (a) the members of the proposed Settlement Class are so numerous that joinder is impracticable; (b) there are questions of law and fact common to the proposed Settlement Class; (c) Plaintiffs' claims present issues that are typical of the proposed Settlement Class; and (d) the Plaintiffs and Class Counsel will fairly and adequately represent and protect the interests of the proposed Settlement Class. The Court further preliminarily finds that for purposes of this proposed Settlement, issues of law and fact common to the proposed Settlement Class predominate over any issues affecting only individual members of the proposed Settlement Class and that settlement of this action as a class action is superior to other means available for fairly and efficiently adjudicating the controversy. The Court also concludes that, because this Action is being settled rather than litigated, the Court need not

consider manageability issues that might be presented by the trial of a class action involving the issues in this case.

5. For purposes of these settlement approval proceedings, the Court finds that proposed Class Counsel are competent and capable of exercising their responsibilities, and that proposed Class Counsel and the proposed Class Representatives have fairly and adequately represented the interests of the Settlement Class. The Court appoints Shanon Carson of Berger & Montague P.C., Greg Coleman of Greg Coleman Law, P.C., and Jonathan Shub of Kohn, Swift & Graf, P.C., as Class Counsel for the proposed Settlement Class. Plaintiffs Steven Dickerson, Robert Hester, Nancy Roberts, Katie Evans Moss, and Richard Sanchez are appointed as the Class Representatives for the proposed Settlement Class.

6. The Court approves the proposed Notice Plan and the related notices that have been submitted as exhibits to the Amended Settlement Agreement (the “Notices”) as Exhibits A, B, and C, respectively. The Court finds that the manner of mailing, publication and dissemination of the Notices and related Settlement information (the “Notice Plan”) constitutes the best practicable notice under the circumstances as well as valid, due and sufficient notice to all persons entitled thereto, and that the Notice Plan complies with the requirements of Federal Rule of Civil Procedure 23 and provides Settlement Class Members due process under the United States Constitution.

7. The Court appoints Angeion Group as the Notice Administrator, with the fees and costs of the Notice Administrator to be borne by JCI. The Notice Administrator shall implement the Parties' Notice Plan which is set forth in Section VI of the Settlement Agreement. The payment of fees and costs to the Notice Administrator shall not be contingent upon any further action of the Court, including, without limitation, any decision on a Motion for Final Approval of the Settlement Agreement.

8. The Court will hold a Final Approval Hearing on _____, 2017 at ___:00 __.m. at the United States District Court for the Middle District of Pennsylvania, 228 Walnut Street, P.O. Box 983, Harrisburg, PA 17101, to determine the fairness, reasonableness, and adequacy of the proposed Amended Settlement Agreement with JCI and to determine whether the proposed Settlement should be finally approved and final judgment entered thereon. At the Final Approval Hearing, the Court will also consider Class Counsel's Motion for Approval of Attorneys' Fees, Expenses, and Service Awards, which shall be filed seven days before the deadline of submitting objections to the Settlement. Any Settlement Class Member who follows the procedures set forth in the Amended Settlement Agreement may appear and be heard at the Final Approval Hearing. The Final Approval Hearing may be continued without further notice to the proposed Settlement Class, except that Class Counsel shall cause any newly

established date and time for the Final Approval Hearing to be announced on the Settlement Website.

9. All objections and requests for exclusion from the proposed Settlement Class, as more fully explained in the Notices, shall be postmarked no later than 60 days after the dissemination of the Notice Plan, and shall otherwise comply with the requirements set forth in the Notices.

10. Class Counsel shall file with the Court their Motion for Final Approval of Amended Settlement Agreement fourteen days before the Final Approval Hearing.

IT IS SO ORDERED.

Dated: March __, 2017

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania