

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUAN RAMON TORRES and EUGENE	§	
ROBISON,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CIVIL ACTION No. 4:09-cv-2056
	§	
SGE MANAGEMENT, LLC; STREAM GAS &	§	
ELECTRIC, LTD.; STREAM SPE GP; <i>et al.</i> ,	§	
<i>Defendants.</i>	§	

**ASSOCIATED CLASS COUNSEL JEFFREY W. BURNETT’S MOTION TO AWARD AND
DISTRIBUTE ATTORNEYS’ FEES AND EXPENSES**

Associated Counsel Jeffrey W. Burnett, PLLC and Jeffrey W. Burnett (collectively, “Burnett”) request the Court award and distribute attorneys’ fees and expenses per Plaintiffs’ Application for Attorneys’ Fees and Expenses for Associated Class Counsel Jeffrey W. Burnett and Jeffrey W. Burnett PLLC. [*See* Dct. 292].

1. The Court should award and distribute fees and expenses to Burnett. On October 11, 2018, the Court approved the settlement between Plaintiff Class and Defendants and awarded aggregate attorneys’ fees and expenses of \$10,275,000. [*See* Dct. 317, at ¶ 14]. The Court retained jurisdiction to allocate fees among Class Counsel and Associated Class Counsel. [*Id.* at ¶ 15]. The Court now has fee applications from all counsel. No class member objected to Burnett’s fee application. Thus, the Court should award Burnett his requested fees and expenses.

2. The fee dispute among other counsel should not delay an award to Burnett. Though there is still a dispute among some counsel related to the allocation of fees, Burnett is not part of that dispute. The voluminous fee-related filings make clear that the fee dispute is primarily—if not exclusively—the result of the breakup of the law firm Clearman|Prebeg, L.L.P. (“C|P”), which was comprised of Scott Clearman and/or The Clearman Law Firm (collectively,

“Clearman”), on the one hand, and Class Counsel Matthew Prebeg and the other attorneys that comprise Prebeg, Faucett & Abbott, LLC (“PFA”), on the other.

For his part, Burnett has no stake in that partnership dispute, nor should that dispute impact or delay the distribution of fees to Burnett. Burnett’s fee application stands on its own and is not dependent on a resolution of C|P partnership issues. Thus, the Court may award and distribute fees to Burnett even without resolving the overlapping fees claimed by Clearman [Dct. 321]¹ and PFA [Dct. 297]. Burnett believes the Court can resolve those overlapping claims based on what is in the record already, and no further briefing or discovery is necessary. If, however, the Court believes a special master or magistrate is necessary to resolve the fee-allocation issues stemming from the breakup of C|P, as suggested by Clearman [Dct. 315], the role of the special master or magistrate should be limited to the allocation of the fees between Clearman and PFA.

3. Prayer. Accordingly, Burnett requests the Court award him \$1,661,750.00 in fees and \$974.72 in expenses—based on Plaintiffs’ Application for Attorneys’ Fees and Expenses for Associated Class Counsel Jeffrey W. Burnett and Jeffrey W. Burnett PLLC [Dct. 292] and the evidence attached thereto—and order those amounts distributed to him consistent with Federal Rule of Civil Procedure 62(a).

Dated: October 24, 2018.

¹ This is Clearman’s second attempt to file a fee application. Plaintiffs objected to and moved to strike Clearman’s previous application [Dct. 303], and the Court granted that objection [Dct. 316]. Burnett has not yet had a chance to review Clearman’s second attempt (late filed) in detail to determine whether it complies with the parties’ *ex-ante* fee agreements, the Court’s October 11th order, or Fifth Circuit precedent for a *Johnson* cross-check. Therefore, Plaintiffs reserve the right to object to Clearman’s second fee application, if necessary.

Respectfully submitted,

/s/ Jeffrey W. Burnett

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Attorney for Plaintiffs & Associated Class Counsel

CERTIFICATE OF SERVICE

I certify that a true and complete copy of this pleading has been served on all counsel of record on October 24, 2018, in accordance with the Federal Rules of Civil Procedure, by electronic filing, email, facsimile, or certified mail, return receipt requested.

/s/ Jeffrey W. Burnett

Jeffrey W. Burnett