

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Juan Ramon Torres and Eugene Robison,

Civil Action No. 4:09-cv-2056

Plaintiffs,

Jury Demanded

vs.

SGE Management, LLC; Stream Gas &
Electric, Ltd.; Stream SPE GP, et al,

Defendants.

UNOPPOSED MOTION FOR FINAL APPROVAL OF SETTLEMENT

The parties ask the Court to give final approval to the settlement at the upcoming October 4, 2018, Final Fairness Hearing (Dkt. No. 290 at 9-10, ¶¶ 30-32) because: (1) they have fully complied with this Court’s June 28, 2018, Order Granting Preliminary Approval of Settlement (Dkt. No. 290) – including that Order’s requirements about the manner and timing of notifying class members of the settlement and of the manner and deadlines for class members to opt out of, or object to, the settlement (Dkt. 290 at 5-11, ¶¶ 15-33); and (2) no class members objected to the parties’ settlement or gave notice of intent to attend the October 4, 2018, Final Fairness Hearing by the Court-imposed September 17, 2018, deadline.

Earlier today, one of the class counsel appointed by this Court filed a document entitled Motion for Final Approval of Class Settlement, Dkt. 301. That document was not filed with the permission of, or notice to, the other class counsel, associated class counsel, or any class representative. Dkt. 301 was also filed in violation of Southern District of Texas Local Rule 11.3, requiring “[E]very document filed must be signed by, or by permission of, the attorney-in-charge.” The filer is not the attorney-in-charge and did not seek the permission of Matthew Prebeg, the attorney-in-charge, any other counsel of record, or any class representative, before filing. For that

reason, plaintiffs request the Court to strike that document.

This Court's June 28, 2018, Order (Dkt. No. 290) stated that any class members wishing to object to the settlement and/or wishing to attend the October 4, 2018, Final Fairness Hearing must file and serve no later than Monday, September 17, 2018 [*i.e.*, 8 "[n]o later than 80 days after the [June 28, 2018] Preliminary Approval Date" (Dkt. No. 290 at 6-7, ¶ 19)]¹: (1) written objections to the settlement, and/or (2) a "Notice to Appear at the Final Fairness Hearing" (Dkt. No. 290 at 6-7, ¶ 19).

The Court's June 28, 2018, Order also explicitly warned that the Court would "not consider a Class Member's objection to the Settlement unless that Class Member files a written objection," by the September 17 deadline, and likewise would "not hear from any Class Member at the Final Approval Hearing unless that Class Member's written objection states he or she wishes to appear before this Court" in a timely filing by the same date (Dkt. No. 290 at 7, ¶20).

The Order likewise directed the attorneys for the parties to file with this Court any "memoranda or other materials to support this Court's final approval of the Settlement no later than 85 days after the [June 28, 2018] Preliminary Approval Date" (Dkt. 290 at 9-10, ¶ 31) – *i.e.*, no later than Monday, September 24, 2018.²

In compliance with the Court's Order, the parties hereby notify the Court that no class members objected to the settlement by the September 17, 2018, deadline, nor did any class members give notice of intent to appear at the final Fairness Hearing, by the Court's required September 17,

¹ Pursuant to FED. R. CIV. P. 6(a)(1), which directs that periods "stated in days" must "exclude the day of the event that triggers the period," 80 days from the June 28, 2018, Preliminary Approval Date (Dkt. No. 290 at 5, ¶ 14), was Monday, September 17, 2018.

² Pursuant to FED. R. CIV. P. 6(a)(1), which directs that periods "stated in days" must "exclude the day of the event that triggers the period," 85 days from the June 28, 2018, Preliminary Approval Date (Dkt. No. 290 at 5, ¶ 14), would fall on Saturday, September 22, 2018. This, then, would push the due date for such filings to the following Monday, September 24, 2018, pursuant to FED. R. CIV. P. 6(a)(1)(C).

2018, deadline (Dkt. No. 290 at 6-7, ¶¶ 19-20).³ Nor, as far as the parties' counsel are aware, have any class members submitted any late objections to the settlement or notices to appear at the Final Fairness Hearing as of the date of this filing.

As of the Settlement Administrator's most recent report to the parties on September 18, 2018 (after the Court-imposed September 17, 2018, deadline had passed), the Administrator, in response to its earlier total of 270,808 email and postcard mailings, had received only six opt-out notices post-marked by the September 12, 2018, opt-out deadline.⁴ The Administrator received zero objections to the settlement. *See* attached here as **Exhibit 1** the September 14, 2018, "Weekly Admin. Report" discussing the notice and response figures in more detail.

In light of the lack of any timely objection or notice of intent to attend the Fairness Hearing, and the requirement of this Court's June 28, 2018, Order that, in such case, no objections or notices of intent to appear at the Fairness Hearing will now be accepted or heard, the parties hereby ask the Court, in light of the lack of any objection, to give final approval to the certified class and the parties' preliminarily-approved settlement at the October 4, 2018, Final Fairness Hearing and sign and enter the order attached as Exhibit E to the Motion to Approve Settlement, Dkt. 289-1, pages 57-61 (also attached here as **Exhibit 2**), a Final Order and Judgment approving the terms and provisions of the settlement agreement.

⁴ The only opt-outs received, specifically, were from the following class members: (1) James Stewart (A#1889670); (2) Guillermo Garza (A#1519859); (3) Lucille P. Pool (A#1763252); (4) Marian Thompson (A#1374951); (5) Maria Magallan (A#1797710); and (6) Cameron Gardens Volunteer Fire Department (A#1234662) (via Richard Frerich).

DATED September 24, 2018

By: /s/ Matthew J.M. Prebeg

PREBEG, FAUCETT & ABBOTT PLLC

Matthew J.M. Prebeg
Attorney-in-Charge
Texas State Bar No. 00791465
Southern District Bar No. 603742
Brent T. Caldwell
Texas State Bar No.: 24056971
Southern District Bar No. 827326
8441 Gulf Freeway, Suite 307
Houston, Texas 77017
Tel.: (832) 742-9260
Fax: (832) 742-9261
mprebeg@pfalawfirm.com
bcaldwell@pfalawfirm.com

-AND-

SOMMERS SCHWARTZ, P.C.

Andrew Kochanowski
akochanowski@sommerspc.com
One Towne Square, Suite 1700
Southfield, MI 48076
Telephone: (248) 355-0300
Facsimile: (248) 936-2140

-AND-

JEFFREY W. BURNETT PLLC

Jeffrey West Burnett
jburnett@burnetthoustonlaw.com

12226 Walraven
Huffman, TX 77336
Telephone: (281) 324-1400
Facsimile: (713) 583-1221

Attorneys for Plaintiffs

CERTIFICATE OF CONFERENCE

I certify that on September 24, 2018, I discussed the foregoing motion with counsel for defendants, and the relief requested by this motion. Defendants' counsel stated defendants were unopposed, and that defendants do not take any position concerning any disputes among class counsel.

/s/Matthew J.M. Prebeg
Matthew J.M. Prebeg

CERTIFICATE OF SERVICE

I certify that on September 24, 2018, the foregoing document was served upon all counsel of record by email and through the Court's CM/ECF system.

/s/Brent T. Caldwell
Brent T. Caldwell

EXHIBIT 1



Torres v SGE Management LLC (7561)

Weekly Administration Report

Fairness Hearing Date: 10/4/2018

	Week Ending	8/24/2018	8/31/2018	9/7/2018	9/14/2018	Cumulative
Outgoing Mailings	Initial Mailing Date 07/30/2018					
Email_Notice - Initial						170,862
Postcard - Initial						10,375
Postcard - Remail (based on Undeliverable Email Notices)						76,018
Postcard - Remail (based on postal forwards and LexisNexis research)		584	5,223	6,813	9	13,211
Requested via Toll Free Number/Correspondence		92	99	42	67	342
Total Mailings Sent		676	5,322	6,855	76	270,808

Undeliverable Mailings						
Total Processed Undeliverable Postcards (including Remails)		9,320	2,797	2,444	753	16,873
Total Undeliverable Emails						76,032
Current Undeliverable Records From Initial Mailing*		4,668	5,952	3,360	3,552	

*Unique record where we were not able to obtain a more current address.

Opt Outs	Deadline 09/12/2018					
Total Opt Outs Received		1	-	1	4	6
- Timely		1	-	1	4	6
- Late					-	-

Objections	Deadline 09/17/2018					
Total Objections Received		-	-	-	-	-
- Timely		-	-	-	-	-
- Late						

Election Forms	Filing Deadline 09/12/2018					
Election Form - Total Received		47	30	47	135	286
Web Election - Total Received		432	180	257	434	1,781
Total Elections Received (Paper/Web)		479	210	304	569	2,067

Incoming and Outgoing Communications						
Email Correspondence (Received)		34	13	29	76	195
Email Correspondence (Sent)		5	-	-	3	14

Call Center Support	+1 855 804 8542	Launch Date 07/26/2018				
IVR - Total Calls			381	184	211	345
IVR - Total Minutes			1,129	523	626	1,149
Website	IgniteAssociatesSettlement.com					
Page Hits			3,888	1,733	2,455	4,110
Sessions			1,023	484	650	1,039
						17,756
						4,651

DISCLAIMER: Epiq Class Action & Mass Tort Solutions ("ECA") maintains this report for its clients to provide a near-real-time view into the Administrator's database. Please be aware that, while ECA makes every effort to ensure that the information provided is timely, accurate and complete, the status of documents and line-item counts may be changing due to work in progress, analyst review, quality assurance audits, processing of additional documentation, and data validation. Before using these statistics for critical analysis or for court filings, you should contact your Project Manager.

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

Juan Ramon Torres and Eugene Robison,

Plaintiffs,

v.

SGE Management, LLC; Stream Gas &
Electric, Ltd.; Stream SPE GP, *et al.*,

Defendants.

CIVIL ACTION NO. 4:09-CV-2056

**ORDER GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT AND FINAL JUDGMENT**

Plaintiffs Christopher Robison (as executor of the Estate of Eugene Robison), and Luke Thomas (collectively, the “Named Plaintiffs”), acting individually and on behalf of the Settlement Class, filed an Unopposed Motion for Final Approval of Proposed Settlement and Final Judgment (the “Motion”). The Motion seeks final approval of the Named Plaintiffs’ agreement with Ignite Holdings LTD, Stream Gas & Electric LTD, Stream Georgia Gas SPE, LLC, Stream SPE GP LLC, Stream SPE LTD, Stream Texas Serviceco, LLC, SGE Consultants, LLC, SGE Energy Management, Ltd., SGE Georgia Holdco, LLC, SGE IP Holdco, LLC, SGE Ignite GP Holdco, LLC, SGE Management LLC, SGE North America Serviceco, LLC, SGE Serviceco, LLC, and SGE Texas Holdco, LLC (collectively, “Ignite”) to settle all individual and class claims that have, or could have, been made in exchange for certain compensation. This Court, having reviewed the Motion and the exhibits, including the settlement agreement (the “Agreement”), finds itself to be apprised of the issues and grants the Motion

NOW, THEREFORE, this Court, having heard the oral presentations made at the Final Approval Hearing, having reviewed the submissions presented regarding the proposed Settlement,

having determined that the Settlement is fair, adequate, and reasonable, and having reviewed the materials in connection therewith, and now deeming itself to be fully informed;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The capitalized terms used in this Order and Judgment shall have the same meaning as defined in the Agreement except as may otherwise be ordered.
2. This Court has jurisdiction over the subject matter of this case, all claims raised therein, and all Parties thereto, including the members of the Settlement Class.
3. This Court finds, solely to consider this Settlement, that the requirements of Federal Rule of Civil Procedure 23 are satisfied, including requirements for numerosity, commonality, typicality, adequacy of representation, manageability of the Settlement Class for settlement, that common issues of law and fact predominate over individual issues, and that Settlement and certification of the Settlement Class is superior to alternative means of resolving the claims and disputes.
4. The Settlement Class, which will be bound by this Final Approval Order and Judgment, shall include all members of the Settlement Class who did not submit timely and valid requests for exclusion. The members of the Settlement Class who have timely submitted a valid request for exclusion are identified in **Exhibit A**.
5. Plaintiffs Christopher Robison (acting as executor of the Estate of Eugene Robison), and Luke Thomas have served fairly and adequately as class representatives of the Settlement Class.
6. These attorneys have served fairly and adequately as Class Counsel (together with Jeffrey W. Burnett, Esq., of Jeffrey W. Burnett, PLLC and Thomas Goldstein and Eric Citron of Goldstein & Russell, P.C., and their respective firms [hereinafter, "Associated Class Counsel"]):

Scott Clearman
The Clearman Law Firm PLLC
2518 South Blvd.
Houston, TX 77098

Matthew Prebeg
Prebeg, Faucett & Abbott PLLC
8441 Gulf Freeway, Suite 307
Houston, TX 77017

Andrew Kochanowski
Sommers Schwartz, P.C.
One Towne Square, Suite 1700
Southfield, MI 48076

7. For purposes of this Final Approval Order and Judgment, the Settlement Class is:

All Independent Associates [IAs] who joined Ignite on or after January 1, 2005, through April 2, 2011, and paid more for the Ignite (a) membership, (b) monthly fees for an Ignite Homesite, and/or (c) other marketing materials than Ignite has paid the IA.

8. Excluded from the Settlement Class, even if they meet the criteria above, are (i) IAs who profited from Ignite (that is, earned more than they paid); (ii) the presiding judge(s) and his or her (or their) immediate family; (iii) any Class Member that elects to be excluded from the Settlement Class; and (iv) any person who has previously released claims against Defendants or whose claims have been fully and finally adjudicated by a court or arbitrator with jurisdiction over the claims.

9. This Court finds that the Notice Plan in the Settlement Agreement and effectuated under the Preliminary Approval Order constitutes the best notice practicable under the circumstances and constitutes due and sufficient notice to the Settlement Class of the pendency, certification of the Settlement Class for settlement only, the terms of the Agreement, and the Final Approval Hearing, and satisfies the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law. This Court further finds that Defendants have fully and timely met the requirements for notice to appropriate federal and state officials under 28 U.S.C. § 1715, and this Order is issued ninety (90) or more days after the service of such notice.

10. The Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class, considering the risks that both sides faced regarding the merits of the claim alleged and remedies requested, the risks of maintaining a class action, and the expense and duration of further litigation. Therefore, this Court has determined that the Settlement should be approved. The Parties shall effectuate the Settlement according to its terms. The Settlement and every term and provision thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full force of an Order of this Court.

11. Upon the Effective Date, the Settlement Class, each of the Class Members, and the Named Plaintiffs (collectively, “Releasers”) shall have, by operation of this Final Approval Order and Judgment, fully, finally and forever released, relinquished, and discharged the Released Persons from all Released Claims under the Settlement.

12. Releasers are permanently barred and enjoined from instituting, commencing or prosecuting, either directly or in any other capacity, any Released Claim against any of the Released Persons.

13. This Final Approval Order and Judgment, the Agreement, the settlement which it reflects, and any and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as or used as an admission by or against Defendants or any other Released Person of any fault, wrongdoing, or liability on their part, or of the validity of any Released Claim or of the existence or amount of damages.

14. The claims of the Named Plaintiffs and all members of the Settlement Class are dismissed in their entirety with prejudice. Except as otherwise provided in this Order and/or in this Court’s Order Awarding Attorneys’ Fees and Expenses, entered in response to Class Counsel’s motion therefor brought in the Settlement, the parties shall bear their own costs and attorneys’ fees. This

Court reserves jurisdiction over implementing the Settlement, including enforcement and administration of the Agreement.

15. This Court finds that no reason exists for delay in entering this Final Order and Judgment, so the Clerk is directed forthwith to enter this Final Order and Judgment.

16. The Parties, without further approval from this Court, are permitted to adopt such amendments, modifications and expansions of the Settlement and its implementing documents (including all exhibits to the Settlement) as may be necessary or expedient to implement the Settlement, so long as they are consistent in all material respects with the Final Order and Judgment and do not limit the rights of the Settlement Class or any of the Class Members.

17. The Settlement and Agreement shall not constitute a waiver of any rights any party may have to compel arbitration in any other legal proceeding.

18. Without affecting the finality of this Final Judgment for appeal, the Court retains jurisdiction on all matters related to the administration, enforcement, and interpretation of the Agreement and this Final Order and Judgment, and for any other necessary purpose.

IT IS SO ORDERED.

Dated:

Hon. Kenneth M. Hoyt
U.S. District Court Judge