

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2006 SEP -7 11 A 9: 26
LORETTA G. WHYTE
CLERK

IN RE HIGH SULFUR CONTENT GASOLINE § CIVIL ACTION NO. MDL 1632
PRODUCTS LIABILITY LITIGATION § "ALL CASES"
§
§ SECTION B
§ JUDGE IVAN L.R. LEMELLE
§
§ MAG. JUDGE ROBY

FINAL APPROVAL ORDER AND JUDGMENT

A final fairness hearing having been held before the Court on September 6, 2006 ("Fairness Hearing"), pursuant to the Court's Preliminary Approval Order dated January 19, 2006 ("Preliminary Approval Order"), upon a Class Settlement Agreement among the Parties to this lawsuit dated January 18, 2006 ("Settlement Agreement"), and upon the prior proceedings in the above-styled action ("Subject Lawsuit"); it appearing that due notice of the Fairness Hearing was given in accordance with the Preliminary Approval Order; the Parties having appeared by their attorneys of record; the Court having heard and considered the Parties' presentations in support of the Settlement Agreement; the opportunity to be heard having been given to all persons validly requesting to be heard in accordance with the Preliminary Approval Order; the Court having determined that the notice to Settlement Class Members was adequate and sufficient; the Court having considered all papers filed herein, and pursuant to the findings of fact and conclusions of law made by the Court, and the entire matter of the proposed Settlement Agreement having been considered by the Court;

Fee _____
Process _____
X Dktd _____
CtRmDep _____
Doc. No. _____

IT IS FOUND, ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over the subject matter and all Parties to the Subject Lawsuit and the Settlement Agreement, including the members of the Settlement Class for the purpose of certifying the Settlement Class, approving the class settlement under Rule 23(e), and entering this Final Judgment with respect to same.

2. The capitalized terms used in this Final Approval Order, Judgment and Order of Dismissal have the same meaning as those defined in the Settlement Agreement.

3. This Court hereby finally approves the Settlement set forth in the Settlement Agreement under Rule 23(e) and other applicable law.

4. On March 7, 2006, Motiva, the Notice Administrator and the Claims Administrator caused the Mailed Notice to individual class members, to be mailed to all Settlement Class Members whose names and addresses could be determined (i) from the voluntary repair program claims records, (ii) from available credit card and other business records applicable to the Designated Gas Stations and Designated Private Fleet Storage Facilities during the appropriate time periods, or (iii) otherwise from records reasonably available to the Parties which would permit the identification of individual Settlement Class Members through reasonable effort.

5. During the period March 12, 2006 through April 30, 2006, Motiva, the Notice Administrator and the Claims Administrator caused the Published Notice of the Class Action Settlement to be published in the publications and according to the schedule set out in the Notice Plan referenced in the Preliminary Approval Order.

6. In the Preliminary Approval Order, this Court previously certified, pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(3) and for purposes of this settlement only, the following Settlement Class:

All persons who owned, operated, rented or leased any Vehicle that used the particular grades of gasoline manufactured by Motiva Enterprises LLC that were (i) purchased during the respective time periods during the Gasoline Purchase Period from the Designated Gas Stations, all of which are specified in more detail in Exhibit A, (see Docket Entry Nos. 44 and 46 incorporated herein by reference), or (ii) delivered during the respective time periods during the Gasoline Purchase Period to the Designated Private Fleet Storage Facilities, all of which are specified in more detail in Exhibit B, (see Docket Entry Nos. 44 and 46 incorporated herein by reference).

The Court reaffirms this class certification and incorporates findings from the Preliminary Approval Order and the Findings of Fact and Conclusions supporting settlement class certification.

7. Defendants complied with the notice procedure approved by the Court's Preliminary Approval Order. Due and adequate notice of the Settlement Agreement, proposed class settlement, and Fairness Hearing was therefore given to the members of the Settlement Class. The Court finds that the Notice given was the best notice practicable under the circumstances, was reasonably calculated to apprise interested parties of the pendency of this action, afforded such parties an opportunity to present their objections or exclude themselves from the Settlement Class, and complied in all respects with the requirements of Rule 23 and all the requirements of due process.

8. This Order is binding on all Settlement Class Members other than those listed in Exhibit 1 hereto who have timely filed requests to be excluded from the Settlement Class.

9. After considering the factors governing the propriety of judicial approval of this Settlement under Rule 23(e), the Court approves the Settlement as fair, reasonable, adequate, and

in the best interests of the members of the Settlement Class. The Parties are directed to take all of the actions required under the terms and provisions of the Settlement Agreement, including providing all of the benefits to the Settlement Class Members described in the Settlement Agreement pursuant to the terms, conditions and schedule described therein.

10. The Court approves the designation of American Red Cross National Disaster Relief Fund for the benefit of the victims of Hurricanes Katrina, Rita and Wilma as the donee for the Cy Pres Fund, and specifically finds that this charity will provide benefit to the Settlement Class Members in that a large portion of the Settlement Class has been adversely affected to a very significant degree by these three storms.

11. Based on the evidence presented before and during the Fairness Hearing, the Court finds that the Settlement Agreement was the result of arms length negotiation, was entered into in good faith by the Parties, and was not the product of fraud or collusion.

12. The terms of the Settlement Agreement and of this Final Approval Order, including all Exhibits to the Settlement Agreement, shall be forever binding upon the Settlement Class Members.

13. The Court hereby dismisses the claims of Plaintiffs and the members of the Settlement Class against all Defendants with prejudice and without costs, other than what has been provided for in the Settlement Agreement. The Court dismisses the claims against Defendants of potential Class Members who have timely and properly requested exclusion from the Settlement Classes, listed on the attached Exhibit 1, without prejudice.

14. Upon the Effective Date, by operation of this Final Order and Judgment, each Settlement Class Member, whether or not such Settlement Class Member executes and delivers a Claim Form or otherwise receives any of the available benefits under the Settlement Agreement,

other than those listed in Exhibit 1, by operation of law and of this Final Order and Judgment, is bound by this Judgment and shall have fully, finally, and forever released, relinquished and discharged Motiva, Shell, all Defendants herein, and the Released Persons from the Released Claims.

(a) The term "Released Persons" means any and all Persons, without limitation, including Shell Oil Company, Royal Dutch Shell PLC, Motiva Enterprises LLC, Shell Oil Products Company LLC, Shell Oil Products Company, Saudi Refining, Inc., Motiva Company, TMR Company, Shell Oil Products Holdings East LLC, Equilon Enterprises LLC, d/b/a Shell Oil Products US, Causeway Service Center Corporation, Causeway Shell, Chambliss, LTD, d/b/a Flagship Shell, ChevronTexaco Corporation, ChevronTexaco Global Downstream, LLC, Cousins Fuel Mart, Inc., Dupre Transport, LLC, Edison Oil Company, Herndon Oil Corporation, d/b/a Shell Food Store No. 311, Jobbers Oil Transport Company, Inc., Michoud Shell, Richcor, Inc. d/b/a Groovin Noovins Food Stores #1, River Parishes Oil Company, Inc., River Parishes Property #1, Inc., d/b/a Holmes Food Mart #1, River Parishes Property #2, Inc., d/b/a Holmes Food Mart #2, River Parishes Property #3, Inc., d/b/a Holmes Food Mart #3, River Parishes Property #4, Inc., d/b/a Holmes Food Mart #4, River Parishes Property #5, Inc., d/b/a Holmes Food Mart #5, River Parishes Property #6, Inc., d/b/a Holmes Food Mart #6, River Parishes Property #7, Inc., d/b/a Holmes Food Mart #7, River Parishes Property #8, Inc., d/b/a Holmes Food Mart #8, River Parishes Property #9, Inc., d/b/a Holmes Food Mart #9, River Parishes Property #10, Inc., d/b/a Holmes Food Mart #10, River Parishes Property #11, Inc., d/b/a Holmes Food Mart #11, River Parishes Property #12, Inc., d/b/a Holmes Food Mart #12, River Parishes Property #13, Inc., d/b/a Holmes Food Mart #13,

River Parishes Property #14, Inc., d/b/a Holmes Food Mart #14, River Parishes Property #15, Inc., d/b/a Holmes Food Mart #15, River Parishes Property #16, Inc., d/b/a Holmes Food Mart #16, Shell Oil Products Company LAN, LLC, Texaco, Inc., Yousef Shell, Shell Norco Refining Company, any and all purported entities named as a defendant in any of the Actions, and each of their respective wholesalers, retailers, jobbers, or any entity or person who sold gasoline during the Gasoline Purchase Period that was refined by Motiva's Norco Refinery, together with all of their present and former, direct and indirect, divisions, parents, subsidiaries and affiliates; any partnership (whether limited or general) or joint venture of which any of the above is or was a partner or member; the predecessors, successors, insurers and assigns of any of the foregoing; and all of the present and former agents, servants, officers, directors, employees, attorneys, consultants, advisors, owners, shareholders, members, partners (whether limited or general), of any of the above.

(b) The term "Released Claims" means without limitation, any and all state and federal claims, actions, demands, rights, liabilities, suits, complaints, petitions, causes of action, whether known or unknown, including, but not limited to, strict liability, Louisiana Products Liability Act, Texas Product Liability Act, Mississippi Product Liability Act, Alabama Extended Manufacturer's Liability Doctrine, unjust enrichment, constructive trust, breach of contract, fraud, misrepresentation, negligence, negligent misrepresentation, suppression, concealment, breach of express and implied warranty, redhibition, violation of any state or federal consumer protection statute or unfair trade practices statute, including, but not limited to, Florida Deceptive and Unfair Trade Practices Act, Texas Deceptive Trade Practices Act, the Magnuson Moss Warranty Act,

Louisiana Unfair Trade Practices Act, Mississippi Consumer Protection Act, Alabama Unfair Trade Practices Act, requests for damages, requests for injunctive relief, disgorgement of monies, requests for declaratory relief, requests for equitable relief of every nature and description whatsoever, and requests for attorneys' fees and costs, whether past, present or future, suspected or unsuspected, contingent or non-contingent, that were asserted or that could or might have been asserted in any pleading or amended pleading by or on behalf of the Settlement Class Representatives or Members, individually or as the Settlement Class, against Defendants and the Released Persons (both jointly and severally) based upon, arising from, or related to the facts alleged in the pleadings in any of the Actions, including, but not limited to: (i) the sale of the concerned gasoline in the States of Florida, Alabama, Louisiana and Mississippi, during the Gasoline Purchase Period, alleged to have caused Vehicular Damage, and (ii) the facts, transactions, events, occurrences, disclosures, statements, acts or omissions or failures to act which were or could have been alleged in any of the Actions or in any similar lawsuits based upon similar facts. Notwithstanding the above, "Released Claims" do not include claims for bodily injury or property damage arising from a motor vehicle accident.

15. Further, notwithstanding that Settlement Class Members may hereafter discover facts in addition to or different from those that they now know or believe to be true concerning the Released Claims, nevertheless, the Settlement Class Members have fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, may hereafter exist, or heretofore have existed based on actions or conduct occurring on or before the date of this Agreement, without regard to

subsequent discovery or existence of such different or additional facts concerning each of the Released Persons.

16. The provisions of any state, federal, municipal, local or territorial law or statute that provide in substance that a release shall not extend to claims, demands, injuries, and/or damages that are unknown or unsuspected to exist at the time a release is entered into are expressly, knowingly and voluntarily waived by the Settlement Class Members to the extent arising from or in any way related to the conduct of Released Parties that is the subject of the Subject Lawsuit, and, by this Judgment all Released Claims are released and forfeited whether known or unknown, suspected or unsuspected. Additionally, the Settlement Class Members waive the application of Section 1542 of the California Civil Code, or any other similar provision, which provides that: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

17. Settlement Class Members do not release any claims they have for bodily injury or property damage arising from a motor vehicle accident.

18. Thomas M. Heaney, Terrance Hayes, Stacey Williams, Richard Sharp, Ashley Hawkes, Susan Dwyer, and Settlement Class Members, for themselves, their heirs, successors, administrators, executors, assigns and agents, are deemed to have agreed that (a) that they are the current legal and beneficial owners of the Released Claims and that they have not assigned, pledged or contracted to assign or pledge any such Released Claim to any person and (b) not to sue, institute, or instigate any legal, equitable or administrative proceedings against the Released Persons relating to any Released Claim. All claims that Thomas M. Heaney, Terrance Hayes,

Stacey Williams, Richard Sharp, Ashley Hawkes, Susan Dwyer, or the Settlement Class Members have assigned or pledged to their attorneys, or contracted to assign or pledge to their attorneys, are released to the same extent as the Released Claims

19. All Settlement Class Members (including -- for Class Members who are natural persons -- their heirs, successors, administrators, executors, assigns and agents, and -- for Class Members who are business entities -- their agents, predecessors, successors, affiliates, related entities, parents and subsidiaries) are, by consent, barred and enjoined from instituting, prosecuting, or continuing to prosecute any action, suit, proceeding, claim, or cause of action, legal or equitable, state or federal, which assert Released Claims against any of the Released Persons, and this Court hereby enters said injunction.

20. Class Counsel's application for attorneys' fees, costs, and expenses in the amount of \$6,875,000 is approved as fair and reasonable. Motiva shall pay such attorneys' fees, costs and expenses according to the terms, conditions and schedule of the Settlement Agreement in trust to Co-Lead Settlement Class Counsel for the benefit of Plaintiffs' Counsel. The allocation of said award amongst Plaintiffs' Counsel shall be by a fee committee comprised of Co-Lead Settlement Class Counsel and the following additional members of the Plaintiffs' Counsel group: Walter C. Dumas, Richard J. Arsenault, and Patrick E. Geraghty, as nominated by Co-Lead Settlement Class Counsel. Any dispute concerning such allocation shall be subject to the exclusive jurisdiction of this Court and shall be a separate and severable matter from all other matters in this Final Judgment and the finality and fairness of the Settlement Agreement with the Settlement Class Members. The said Attorneys' Fees, Costs, and Expenses Payment is the total amount that will be paid by Motiva for any and all attorneys' fees, costs, and expenses in connection with the Subject Lawsuit and the Actions, settlement of the Released Claims, and all

other claims arising from (i) the sale of allegedly tainted gasoline in the States of Florida, Alabama, Louisiana, and Mississippi during the class period, and (ii) the facts, transactions, events, occurrences or failures to act which were or could have been alleged in The Subject Lawsuit or in any of the Actions, or in any similar lawsuits based upon similar facts and which are covered by Released Claims. The Attorneys' Fees, Costs and Expenses Payment shall represent the Defendants' only obligation to pay attorneys' fees, costs and expenses regardless of the amount of attorneys' fees, costs, and expenses actually expended or deemed earned by Co-Lead Settlement Class Counsel and Plaintiffs' Counsel, and regardless of whether any member of the Settlement Class retained separate or additional counsel, or incurred separate or additional attorneys' fees, costs, or expenses. Receipt by Co-Lead Settlement Class Counsel of the said Attorneys' Fees, Costs and Expenses Payment shall be deemed a receipt thereof by each and every Plaintiffs' Counsel, and shall fully and completely release the Released Persons and each of them, and their respective heirs, executors, administrators from any and all claims for any further payment of attorneys' fees, costs, and/or expenses.

21. Class Representatives Thomas M. Heaney's, Terrance Hayes', Stacey Williams', Richard Sharp's, Ashley Hawkes', and Susan Dwyer's applications for class representative special incentive awards of \$2,000 each are approved as fair and reasonable. Individual Plaintiffs applications for special incentive awards of \$400 each with a \$4,000 aggregate cap for each case are approved as fair and reasonable. See List of Approved Incentive Awards, attached as Exhibit 2, Motiva shall pay such awards according to the terms, conditions and schedule of the Settlement Agreement.

22. The Court recognizes that Defendants have denied and continue to deny Plaintiffs' claims and deny any wrongdoing or liability whatsoever. Neither the Settlement

Agreement, Final Approval Order, any papers related to the Settlement Agreement, nor the fact of Settlement shall in any event be used as an admission of the Defendants, or any other person, of any fault, omission, liability or wrongdoing whatsoever, and shall not be offered as evidence of any claimed liability or wrongdoing whatsoever in this or any future proceeding.

23. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over all Parties and Settlement Class Members to enforce the Settlement Agreement and this Final Judgment only. Notwithstanding the provisions hereof, evidence of the Settlement Agreement and this Court's orders approving same shall be admissible in any such enforcement proceedings, but not as an admission of liability in the underlying lawsuit.

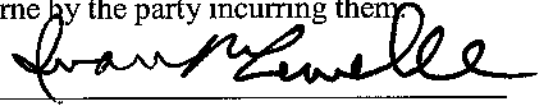
24. In the event that the Settlement does not become effective in accordance with the terms of the Settlement, then this judgment shall be rendered null and void to the extent provided by and in accordance with the Settlement Agreement, and in such event, all orders and judgments entered in connection herewith shall be null, void and vacated to the extent provided by and in accordance with the Settlement Agreement.

25. The Motiva and Co-Lead Settlement Class Counsel may jointly agree by written amendment to modify the provisions of the Settlement Agreement as they deem necessary to effectuate its intent, provided, however, that they may make no agreement that reduces or impairs any benefits to any Settlement Class Members without approval by the Court.

26. The Court has considered the due process rights of absent class members and finds that such rights have been and are adequately protected herein.

27. This Order is a Final Judgment, and is in all respects a final and appealable order.

28. Except as expressly stated otherwise in this Final Order, the Preliminary Approval Order, or the Settlement Agreement, all costs shall be borne by the party incurring them.



JUDGE IVAN L.R. LEMELLE
UNITED STATES DISTRICT JUDGE

DATE: September 6, 2006