

ENTERED

October 28, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

BLAKE CHAPMAN, *et al.*,

individually and on behalf of all others
similarly situated,

Plaintiffs

vs.

voestalpine Texas Holding, LLC, *et al.*

Defendants

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C.A. No. 2:17-cv-00174

ORDER

On October 28, 2021, the Court heard an unopposed motion by Plaintiffs Blake Chapman, Ricky Stephens, Gary Thurmond, Jr., Carolyn Thurmond, Hortensia Martinez, Charles Garrett, and Roel Garcia (“Representative Plaintiffs”) for preliminary approval of a class action settlement (the “Motion”), related to Representative Plaintiff’s claims against Defendants voestalpine Texas, LLC, voestalpine Texas Holding, LLC, and voestalpine US Holding, LLC (collectively “Defendants”). The Court has considered the Motion, the Class Action Settlement Agreement¹ (“Settlement” or “Settlement Agreement”), the proposed Notice Plan, including the Short Form Notice (which will also be used for the Newspaper Notice), Long Form Notice, Claim Form, Property Identification Plan, and Notice Plan, and the submissions of counsel, and hereby finds and orders as follows:

¹ All capitalized terms shall be given their defined meaning as set forth in the Settlement Agreement.

1. The Court finds on a preliminary basis that the class settlement memorialized in the Settlement Agreement, filed with the Court, falls within the range of reasonableness and, therefore, preliminarily approves its terms as it meets the requirements for preliminary approval of a class action.

2. The Court conditionally certifies, for settlement purposes only, the following Class:

All Persons who Reside in the Class Area as of the date the Court enters the Preliminary Approval Order, or who formerly Resided within the Class Area² for a period of at least one (1) month during the Class Period, and had a legal right to occupy the Residence, through property ownership or residential lease agreement.

3. The Court finds that, for settlement purposes only, the requirements of Federal Rule of Civil Procedure 23(a), and Federal Rule of Civil Procedure 23(b)(3) are satisfied, with the exception of the manageability requirement of Rule 23(b)(3), which the Court need not address for purposes of settlement.

4. The Court appoints, for settlement purposes only, Blake Chapman, Ricky Stephens, Gary Thurmond, Jr., Carolyn Thurmond, Hortensia Martinez, Charles Garrett, and Roel Garcia as Representative Plaintiffs.

5. The Court appoints, for settlement purposes only, Anderson Alexander PLLC, Liles White, PLLC, and Frazer Law, PC as Class Counsel.

6. The Court appoints Postlethwaite & Netterville as the Claims Administrator.

7. The Court appoints Dan Balhoff (including members or representatives of his firm, Perry, Balhoff, Mengis & Burns, LLC, to whom he may delegate tasks) as Special Master, for the purpose of overseeing the settlement administration and allocating the Net Settlement Amount amongst the Class Members, according to the terms of the Agreement.

² The Class Area is set forth in Exhibit D to the Agreement.

8. The Court approves, as to form and content, the Notice Plan, including the Short Form Notice, Long Form Notice, Claim Form, and Property Identification Plan, attached to the Agreement as Exhibits A, B, C, and J. The Claims Administrator is ordered to disseminate the Notice Packet, containing the Short Form Notice, Claim Form, and pre-paid return envelope to all Residences/Persons identified in the Property Identification Plan. The Notice documents fairly and adequately describe the terms and effect of the Agreement and give adequate notice of Class Members' right to opt-out of, or object to, the Settlement.

9. The Claims Administrator is likewise ordered to post the Newspaper Notice in the Corpus Christi Caller Times according to the terms of the Agreement, and set up a settlement website and toll-free hotline for the use of the Class Members.

10. Each Class Member will have sixty (60) days after the date on which the Claims Administrator disseminates the Notice to submit a Claims Form to be entitled to receive a Settlement Sum, as described in the Settlement Agreement and the Notices.

11. Each Class Member (other than the Representative Plaintiffs) will have sixty (60) days after the date on which the Claims Administrator disseminates the Notice to submit a written request for exclusion (written opt-out request) from the Class, or to object to the Settlement, as described in the Settlement Agreement and the Notices.

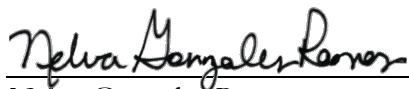
12. The Parties are authorized to file the Settlement Distribution Plan under Seal in conjunction with their Motion for Final Approval of the Settlement. The Settlement Distribution Plan will contain the Settlement Sum each Participating Class Member will receive pursuant to the terms of the Settlement, and the Participating Class Members are entitled to privacy in their financial dealings.

13. The Court will conduct a Final Approval Hearing on June 15, 2022, at 1:30 a.m. (p.m.) to confirm the overall fairness of the settlement and to set the amount of reasonable attorneys' fees and costs to Class Counsel and enhancement payments to the Class Representatives. The Final Approval Hearing may be continued without further notice to members of the Class. Class Counsel shall file their motion for reasonable attorneys' fees, costs, expenses, and the Class Representative payment sought in the Settlement, on or before May 25, 2022. Class Counsel shall file their motion for final settlement approval, on or before May 25, 2022.

14. The Court enjoins Class Members under the All Writs Act, 28 U.S.C. § 165, up to the date of entry of a Final Approval Order or the voiding of the Settlement Agreement, from filing or prosecuting any claims, suits, or administrative proceedings regarding claims released by them under the Settlement unless and until such Class Members have submitted valid and timely Requests for Exclusion with the Claims Administrator and the Claim Deadline has elapsed.

15. The Court authorizes and approves the establishment of a Qualified Settlement Fund ("QSF") related to this Settlement and to maintain jurisdiction over the QSF during the pendency of the settlement administration process.

IT IS SO ORDERED the 28th day of October, 2021.



Nelva Gonzales Ramos
United States District Court Judge