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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED DESERT CHARITIES, *et al.*,
Plaintiffs,
vs.
SLOAN VALVE COMPANY, *et al.*,
Defendants

Case No. 2:12-cv-06878 SJO (SHx)
AMENDED ORDER
CONDITIONALLY APPROVING
MODIFICATIONS OF
SETTLEMENT AGREEMENT AND
PLAN OF ALLOCATION

The Honorable. S. James Otero
Date: April 10, 2017
Time: 10:00 a.m.
Courtroom: 10C

Consolidated Cases:

Berube v. Flushmate
2:13-cv-02372-SJO-SH
Brettler v. Flushmate
2:13-cv-02499-SJO-SH
Kubat, et al. v. Flushmate
2:13-cv-02425-SJO-SH
Patel v. Flushmate
2:13-cv-02428-SJO-SH

Related Cases:

Mergens v. Sloan Valve Co.
2:16-cv-05255-SJO-SKx
Dimov v. Sloan Valve Co.
1:12-cv-09700 (N.D. Ill)

1 Upon review and consideration of the Joint Motion for Conditional Approval of
2 Modifications of Settlement Agreement and Plan of Allocation, the Special Master's
3 Report and Recommendation, and all declarations and exhibits submitted with the
4 motion (collectively, the “Joint Motion”), which have been filed with the Court, and the
5 argument of counsel, it is hereby ORDERED and ADJUDGED as follows:

6 1. The Court conditionally approves the proposed modifications of the
7 Settlement Agreement and Plan of Allocation as set forth in the Joint Motion as being a
8 fair, reasonable and equitable solution for allowing distribution of some of the
9 unclaimed settlement funds remaining in the Settlement Fund Trust Account following
10 the close of the Claims Period to the Settlement Class. In addition, by proposing that
11 some of those unclaimed settlement funds also be utilized to resolve the claims of the
12 proposed settlement class in the related *Mergens v. Sloan Valve Co.* case pending before
13 this Court (Case No. 2:16-cv-05255-SJO-SKx), the Motion applies some of those
14 settlement funds to their next highest and best use in accordance with the *cy pres*
15 doctrine.

16 2. Because the proposed modifications of the Settlement and Plan of
17 Allocation provide many additional benefits to the Settlement Class, do not provide for
18 a lesser recovery to the Settlement Class than was available under the original
19 Settlement, and do not bargain away rights to enforce portions of that agreement, there
20 is no requirement that supplemental notice be provided to the Settlement Class or that
21 Settlement Class Members be afforded the opportunity to be heard on the proposed
22 modifications under Rule 23(e) of the Federal Rules of Civil Procedure prior to their
23 adoption.

24 3. Nevertheless, notice of the proposed modifications of the Settlement and
25 Plan of Allocation as set forth in the draft Notices attached as **Exhibits 6-9** to the
26 Declaration of Shannon Wheatman shall be provided to the Settlement Class. The
27 Court approves, as to form and content, the draft Notices attached as **Exhibits 6-9** to the
28 Wheatman Declaration, for dissemination to the Settlement Class in accordance with

1 the Notice Plan, and finds that the Notice Plan is fair, reasonable and adequate. All
2 costs associated with the Notice Plan shall be paid from the Settlement Fund Trust
3 Account. Class Counsel and Counsel for Defendants are authorized to make
4 non-material changes to the form or content of the draft Notices without further
5 approval of the Court.

6 4. A final hearing on the Joint Motion shall be held before this Court on
7 September 18, 2017 at 10:00 a.m., to consider (i) entry of a final order approving the
8 proposed modifications of the Settlement and Plan of Allocation; and (ii) any written
9 comments regarding the proposed modifications submitted by Settlement Class
10 Members in advance of the final hearing and/or entertain comments from Settlement
11 Class Members at the final hearing.

12 5. Any Settlement Class Member may submit written comments on the
13 proposed modifications in advance of the final hearing so long as they are postmarked
14 by August 21, 2017 and addressed to Class Counsel at the Birka-White Law Offices, 65
15 Oak Court, Danville, CA 94526, Attn: David M. Birka-White, and Defense Counsel,
16 Dentons US LLP, 1999 Harrison Street, Suite 1300, Oakland, CA 94612, Attn: Steven
17 H. Frankel.

18 6. The final hearing on the Joint Motion may be postponed, adjourned, or
19 continued by Order of the Court, without further notice to the Settlement Class.

20 IT IS SO ORDERED.

21 Dated: April 10, 2017



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23 THE HONORABLE S. JAMES OTERO
24 UNITED STATES DISTRICT JUDGE
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