

IN THE CIRCUIT COURT OF THE
6TH JUDICIAL CIRCUIT, IN AND
FOR PINELLAS COUNTY, FLORIDA

ALFRED L. WILLIAMS, II, on
behalf of himself and all others
similarly situated,

Plaintiffs,

vs.

HERITAGE OPERATING, L.P.,
d/b/a HERITAGE PROPANE, a
Delaware Limited Partnership, as
successor in interest to PEOPLES
GAS; and AMERIGAS PROPANE,
L.P., a Delaware Limited
Partnership,

Defendants.

CASE NO.: 05-7822-CI-11

FILED
ST. PETERSBURG BRANCH
2018 FEB - 9 PM 4:08
KEN BURKE
CLERK OF CIRCUIT COURT
AND COMPTROLLER

FINAL DISTRIBUTION ORDER

The Court having conducted a status conference hearing on January 26, 2018, and having considered presentation by Class Counsel, it is hereby ordered:

Class counsel shall be reimbursed additional costs incurred during the distribution process and to reimburse Class Representative, Mr. Williams for replacing his propane tank incurred because Heritage unilaterally terminated its relationship with him in an unsuccessful attempt to remove his standing to represent the class, in 2010, before class certification. The total amount of such additional costs both to Class counsel as well as to Mr. Williams is:

\$21,275.25.

It is further ordered that Angeion, the judgment distribution administrator, has incurred additional expenses, and submitted additional invoices in the amount of \$63,261.24, which amount shall be paid to Angeion.

Class counsel have submitted supplemental lodestar breakdowns of additional attorney's fees for work performed subsequent to submission of their previous attorney's fee submissions, related to and in support of the judgment distribution efforts. Class counsel shall recover those attorney's fees, but without any multiplier enhancement. The total sum of those fees, submitted by Liggio Law, The Whittemore Group, and the Law Office of Scott Johni, P.A. is: \$198,957.48.

There is a gross amount of \$4,033,260.09 in remaining judgment funds before payment of the above sums.

The net amount of the judgment recovery remaining after the above noted costs and attorney's fees are distributed, is \$3,749,766.12. Angeion is directed to return those funds forthwith, to the Liggio Law Trust Account for further distribution to *cy pres* recipients in the amounts directed below. 1

Cy pres is a concept imported into class action jurisprudence from trust law, in which funds of a trust which cannot be distributed in strict accordance with the terms of the instrument are distributed in the nearest possible way, as determined by the court. In class action litigation, *cy pres* involves either

1 Angeion will retain \$10,000 to be used in the event of any additional issues with class members needing replacement checks, for a period of 6 months. At the end of that time, any remaining funds will be forwarded to Liggio Law, for distribution, pro rata, to the *cy pres* recipients

distribution of the entire damages or distribution of unclaimed funds to either entities whose interest is as near as possible to the class, or to entities that are capable of remedying the type of harm that was at issue in the case.

For example, in Superior Beverage Company v. Owens-Illinois, Inc., 827 F.Supp. 477(N.D. Ill.), an antitrust class action, undistributed funds were paid out to various public interest groups including, inter alia, a Legal Aid Bureau. In West Virginia v. Chas. Pfizer and Company, 314 F.Supp. 710 (S.D.N.Y. 1970), aff'd 440 F.2d 1079 (2d Cir. 1971), cert denied 404 U.S. 871 (1971) unclaimed funds from 66 antitrust class actions against antibiotics makers were distributed to various public health programs.

The use of *cy pres* distributions in class actions, and particularly with respect to unclaimed funds, is so common that one recognized treatise states that *cy pres* distribution in class actions is "likely the most prevalent method for disposing of unclaimed funds." Newberg on Class Actions Section 12:32 (5th Ed. 2014); e.g. Lane v. Facebook, Inc., 696 F.3d 811 (9th Cir. 2012); Hughes v. Kore of Indiana Enterprise, Inc., 731 F.3d 672 (7th Cir. 2013).

Class Counsel is directed to distribute, from the Liggio Law Trust Account, the remaining \$3,749,766.12 to the following *cy pres* recipients in the following amounts:

- 1) The Salvation Army \$1,500,000.00; to assist the client's they serve in the payment of utility bills and for the Pathway of Hope program;
- 2) The Florida Bar Foundation \$500,000.00; to be used for grant funding for access to civil justice for the underprivileged and access to courts;

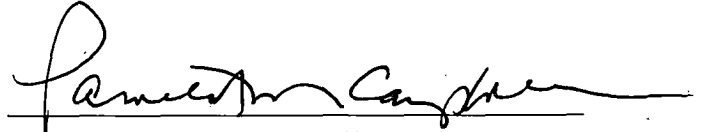
- 3) Tampa Bay Chapter of The American Board of Trial Advocates \$100,000.00;
to be used in promoting professionalism;
- 4) The Florida Justice Association Research and Education Foundation
\$100,000.00;

The remainder of the funds are to be distributed to the various non-profit legal aid societies throughout Florida, since this case involved customers from around the state, and area determined based on the proportion to the percentage of the population. Each of the following organizations serve at least one county, offer legal aid for utilities and consumer advocacy. These funds are not to be restricted. Where a county may be served by more than one organization, for distribution purposes, the counties' population was equally split among them.

- 5) The Bay Area Legal Services \$198,526.12;
- 6) Brevard County Legal Aid \$21,696.06;
- 7) Clay County Legal Aid \$15,807.61;
- 8) Community Legal Services of Mid-Florida \$326,380.71;
- 9) Florida Rural Legal Services \$260,360.68;
- 10) Gulf Coast Legal Services \$55,946.55;
- 11) The Jacksonville Area Legal Aid \$69,274.54;
- 12) Legal Aid of Manasota \$19,527.05;
- 13) Legal Aid of Broward County \$141,803.58;
- 14) The Legal Aid Society of Palm Beach County \$53,466.92;
- 15) The Legal Services of Greater Miami \$213,402.77;

- 16) Legal Services of North Florida \$110,033.38;
- 17) St. Johns County Legal Aid \$5,734.13;
- 18) Three Rivers Legal Services \$57,806.27.

ORDERED in Chambers in St. Petersburg, Pinellas County Florida this
9th day of February, 2018.



Pamela A.M. Campbell
Circuit Judge

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