

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

VINCENT J. EMILIO, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

ROBISON OIL CORP. d/b/a ROBISON,

Defendant.

Index No. 03-01412
(Scheinkman, J.)

FILED

FEB 3 - 2012

TIMOTHY G. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

**ORDER AND FINAL JUDGMENT APPROVING SETTLEMENT AND PAYMENT OF
SETTLEMENT ADMINISTRATION FEES AND COSTS, AND AWARDED
ATTORNEYS' FEES AND EXPENSES AND INCENTIVE FEES**

WHEREAS:

A. On November 14, 2011, Plaintiff Vincent J. Emilio ("Plaintiff") applied to the Court pursuant to Civil Practice Law and Rules ("CPLR") Article 9 for an order preliminarily approving and implementing the settlement of this litigation (the "Action") in accordance with the settlement agreement dated November 14, 2011 (the "Settlement Agreement") that, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of this Action (the "Settlement") between Plaintiff and defendant Robison Oil Corp. d/b/a Robison ("Defendant" or "Robison"), and for a judgment dismissing this Action with prejudice upon the terms and conditions set forth in the Settlement Agreement.

B. In the Order Preliminarily Approving Settlement, dated November 18, 2011 (the "Preliminary Approval Order"), this Court, among other things: (i) certified the following class for purposes of the Settlement:

All persons and entities within the State of New York who, for the period beginning on January 28, 1997 and continuing to September 6, 2006 (the "Class Period"), allegedly were wrongfully and deceptively required to pay Robison Oil Corp. d/b/a Robison ("Robison") amounts in excess of the electric rates required under the terms of their annual fixed-rate electric supply service contracts with Robison (the "Class").

Excluded from the Class are Robison, its subsidiaries, affiliates, owners, executive officers, directors and employees, and any persons previously requesting exclusion in response to dissemination of the Notice of Pendency of Class Action and any judge presiding, or who has presided, over the action.

(ii) preliminarily approved the Settlement; (iii) scheduled a hearing for February 3, 2012 to consider whether to approve the Settlement as being fair, reasonable and adequate, to enter final judgment thereon and to consider any application by Settlement Class Counsel for payment of the fees and costs of the Settlement Administrator and the fees of the computer database analysis expert utilized by Settlement Class Counsel in connection with their supervision of the administration of the notice and claims process and distribution of the Net Settlement Benefits to the Class, an award of attorneys' fees and expenses including expert fees, and an incentive fee award to Plaintiff (the "Fairness Hearing"); (iv) directed that notice of the proposed Settlement and the Fairness Hearing, substantially in the form annexed as Exhibit B to the Settlement Agreement (the "Settlement Notice"), be disseminated to all Class members who could be identified with reasonable effort, along with publication of a summary notice, substantially in the form annexed as Exhibit D to the Settlement Agreement (the "Summary Settlement Notice"), and that the Settlement Notice, the Settlement Agreement with exhibits and Plaintiff's Amended Class Action Complaint be posted on the websites of Settlement Class Counsel William R. Weinstein, Robison and the Settlement Administrator with a conspicuous link to such information identifying the existence of the Settlement of the Action until fifteen (15) days following the Effective Date of the Settlement; and (v) directed that the Settlement Administrator

mail a copy of a notice in a form agreed to by the Parties to all Robison electric customers who previously were mailed notice of pendency of the class action pursuant to the Court's Amended Order entered July 16, 2010 (the "Notice Order") but who have been determined by Settlement Class Counsel not to have an "Allowed Claim" to notify them that they have been determined by Settlement Class Counsel not to be part of the Class under the Settlement and will not be entitled to share in any benefits under the Settlement, but will not be required under the Settlement to release any claims they may have against Robison.

C. Settlement Class Counsel have submitted an affidavit from the Settlement Administrator appointed in the Preliminary Approval Order attesting that the Settlement Notice and Summary Settlement Notice were disseminated and the required documents posted to the Settlement Administrator's website in accordance with the Court's Preliminary Approval Order, and that the required notice was mailed to all Robison electric customers who previously were mailed notice of pendency of the class action pursuant to the Notice Order, but who have been determined by Settlement Class Counsel not to have an "Allowed Claim," to notify them that they have been determined by Settlement Class Counsel not to be part of the Class under the Settlement and will not be entitled to share in any benefits under the Settlement, but will not be required under the Settlement to release any claims they may have against Robison. Additionally, Settlement Class Counsel William R. Weinstein and Robison each have submitted an affidavit or affirmation attesting that the required documents were posted to their websites in accordance with the Court's Preliminary Approval Order.

D. Annexed as Exhibit 1 hereto is a list of all potential Class members who requested exclusion from the Class in connection with the prior dissemination of the notice of pendency of the class action pursuant to CPLR 904, as directed by the Notice Order.

E. The Court held a Fairness Hearing on February 3, 2012 and has considered all prior proceedings in the Action, the Settlement Agreement and the exhibits annexed thereto, any submissions made in connection with the proposed Settlement and all proceedings during the Fairness Hearing.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. To the extent not defined herein, this Order and Final Judgment (the "Final Judgment") incorporates by reference the definitions in the Settlement Agreement, and all terms not otherwise defined herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court hereby determines that the Settlement Notice and Summary Settlement Notice and website postings complied with the requirements of CPLR 904, 907 and 908 and due process and were the best notice practicable under the circumstances and constituted due and sufficient notice to all persons entitled thereto, including individual notice to all Class members who could be located through reasonable effort. The Settlement Notice and Summary Settlement Notice and website postings provided due and adequate notice of these proceedings, the Settlement, the application of Settlement Class Counsel for the payment of the settlement administration fees and costs, an award of attorneys' fees and expenses including expert fees, and an award of incentive fees to Plaintiff, and the other matters set forth therein, to all persons entitled to such notice.

3. Due and adequate notice of the proceedings having been given to the Class members, and a full opportunity having been offered to the Class members to object to the proposed Settlement, to participate in the Fairness Hearing thereon, or to request exclusion from

the Class, it is hereby determined that all Class members who have not requested exclusion are bound by this Final Judgment (whether or not any Class member has objected to the Settlement).

4. (a) Those persons identified in Exhibit 1 hereto shall be excluded from the Class and any benefits under the Settlement.

(b) Additionally, all Robison electric customers who previously were mailed notice of pendency of the class action pursuant to the Notice Order, but who have been determined by Settlement Class Counsel not to have an "Allowed Claim" under the Settlement, have been sent notice advising them that they have been determined by Settlement Class Counsel not to be part of the Class under the Settlement and will not be entitled to share in any benefits under the Settlement; these Robison customers will not be required under the Settlement to release any claims they may have against Robison.

5. Pursuant to CPLR 907 and 908, the Court finds that the Settlement is in all respects fair, reasonable and adequate to each of the Releasing Parties and each Class member, and the Settlement is hereby approved by the Court. In making this determination, the Court has considered, among other things, the benefits conferred on the Class by the Settlement, the risks faced by the Class in establishing liability and damages during a trial of the matter, and the value of the Settlement now in comparison to the likely duration, complexity and further expense of this litigation in the absence of the Settlement and the uncertainty resulting from such delay. The Court further finds that the Settlement has been the product of vigorous arm's-length negotiations and has been entered into in good faith. The Parties thereto are directed to consummate the Settlement in accordance with the terms and conditions of the Settlement Agreement.

(a) In determining that the Settlement is in all respects fair, reasonable and adequate to each of the Releasing Parties and each member of the Class, and in approving the Settlement, the Court has considered that no objections have been raised by Class members to the Settlement.

6. The Amended Complaint against Defendant in this Action is dismissed on the merits and with prejudice, with each party to bear his, her or its own costs, except for the payment of the fees and costs of the Settlement administration previously agreed to by the Parties and hereby approved by the Court, and the payment of the attorneys' fees and reimbursement of expenses including expert fees and the award of incentive fees to Plaintiff as otherwise provided for in Paragraph 9 below and in Paragraph 3 of the Settlement Agreement.

7. (a) Upon the Effective Date of the Settlement, Plaintiff and all other members of the Class who have not been excluded therefrom, on behalf of themselves, their respective heirs, executors, attorneys and administrators, successors and/or assigns of any person(s) they represent in any and every capacity whatsoever (collectively the "Releasing Parties"), for good and sufficient consideration, shall be deemed to have fully, finally, and irrevocably released, relinquished and forever discharged Defendant and any owner, parent corporation, direct and indirect subsidiaries and any other person, firm, trust, corporation, or other entity related to, affiliated with, employed by, or acting as an officer, director, manager, attorney or agent for Defendant, including but not limited to Singer Holding Corporation, together with their predecessors, successors and assigns (collectively, the "Released Parties"), from all claims (including known claims, as well as "Unknown Claims" defined below), demands, rights, liabilities and causes of action of every nature and description whatsoever, whether asserted or that could have been asserted by Plaintiff or by any of the Releasing Parties against the Released

Parties, directly, indirectly, representatively, derivatively or in any other capacity, in this Action or any other forum (judicial, administrative, arbitral or other), based on, arising out of, in connection with or relating to the facts alleged in the Amended Complaint for the period beginning on January 28, 1997 and continuing to September 6, 2006, including but not limited to, claims for breach of contract, quasi-contract, violations of New York General Business Law § 349, violations of New York General Obligations Law § 5-903, and violations of any other state or federal statutes, regulations or principles of common law, of any kind, nature and/or description, matured or unmatured, liquidated, or unliquidated, accrued or unaccrued, known or unknown, contingent or non-contingent, whether at law, equity, or otherwise, that exist as of the date of the Settlement Agreement or theretofore existed (the "Released Claims").

(b) "Unknown Claims" means any and all settled claims which Plaintiff or any Class member or Releasing Party does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any claims of the Released Parties which Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her or its decision not to object to the Settlement Agreement or the Settlement.

8. (a) Without further action by anyone, on and after the Effective Date of the Settlement, each of the Released Parties shall be deemed to have, and by operation of law and the Final Judgment shall have, fully, finally and irrevocably released, relinquished and forever discharged Plaintiff, the Class members, Settlement Class Counsel and all other counsel representing Plaintiffs and the Class members in the Action from all claims arising out of, relating to, or in connection with the institution, prosecution, assertion or resolution of the Action and the Released Claims; provided, however, that nothing in the Settlement Agreement or this

Final Judgment shall bar any action or release any claim to enforce the terms of the Settlement Agreement or the Final Judgment.

(b) Defendant and its counsel shall have no responsibility for the administration of the Settlement other than cooperating in good faith with Settlement Class Counsel and the Settlement Administrator as necessary to effect the administration of the Settlement in accordance with the terms of the Settlement Agreement.

9. (a) The application by Settlement Class Counsel on behalf of all counsel representing Plaintiff and Class members in this Action for the award of attorneys' fees and reimbursement of expenses is granted, and said counsel are awarded legal fees of \$294,533, and expenses including expert fees of \$89,967. Said fees and expenses shall be allocated among all counsel representing Plaintiff and Class members in this Action by Settlement Class Counsel (William R. Weinstein of Law Offices of William R. Weinstein, and Michael A. Katz) in a manner which, in Settlement Class Counsel's good faith judgment, reflects each Plaintiff's counsel's contribution to the institution, prosecution and resolution of the Action, including the origination of the Action and introduction of the client, as well as time and fees incurred and the work performed. Said awarded fees and expenses may be drawn down from the Settlement Fund and paid to Settlement Class Counsel for further allocation and distribution in accordance with the terms of the Settlement Agreement.

(1) In approving the application for the award of attorneys' fees and expenses, the Court has considered that no objections have been raised by Class members to the application.

(b) The application by Settlement Class Counsel for an award of incentive fees to Plaintiff for his efforts in connection with the prosecution of the Action, to which no

objection was filed, is granted, and Plaintiff Vincent J. Emilio is awarded incentive fees of \$5,000 on account of his substantial participation in the Action, to be paid from the Settlement Fund.

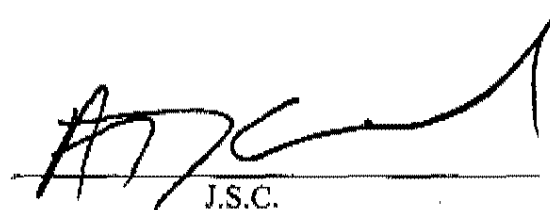
(c) The application by Settlement Class Counsel for an award of the Settlement Administrator's fees and costs in connection with the administration of the Settlement, and the fees of the computer database analysis expert utilized by Settlement Class Counsel in connection with their supervision of the administration of the notice and claims process and distribution of the Net Settlement Benefits to the Class, in the amount of \$35,500, is granted, with the balance of those fees and costs to be paid from the Settlement Fund.

10. Neither the Settlement Agreement nor any proceedings taken in accordance with the terms set forth therein shall be construed or deemed to be evidence, or any admission or concession, either (a) on the part of Plaintiff, of the lack of merit of this Action, or (b) on the part of Defendant, of any breach of contract or violation of any statute or regulation or principle of common law or of any liability or wrongdoing or that any person or entity has suffered any damages as a result of any matter that underlies any of the allegations or claims that were or could have been brought with respect to the facts alleged in the Amended Complaint in the Action. Any such evidence, admission or concession is expressly denied and disclaimed by Plaintiff and Defendant.

11. Without in any way affecting the finality of this Final Judgment, this Court shall retain continuing jurisdiction over this Action and the Parties to the Settlement Agreement in order to enter any further orders as may be necessary to effectuate the Settlement Agreement, the Settlement provided for therein, and the provisions of this Final Judgment.

Dated: White Plains, New York

February 3, 2012



J.S.C.

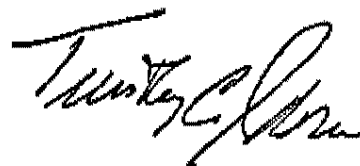


EXHIBIT 1

Persons previously requesting exclusion from the Action captioned *Emilio v. Robison Oil Corp.*

d/b/a Robison:

	NAME	CITY	STATE	DATED
1.	NANCY GOETZ	MIDDLE VILLAGE	NY	October 6, 2010
2.	JESSICA GALLIGAN GOLDSMITH	ARMONK	NY	October 7, 2010
3.	DAVID SEICOL	WHITE PLAINS	NY	October 7, 2010
4.	REGINA MACONE	YONKERS	NY	October 8, 2010
5.	JOSEPH A. GOTTLIEB	ARMONK	NY	October 8, 2010
6.	PRISCILLA HUMPHREY FOR THE ESTATE OF JAMES HUMPHREY	BETHLEHEM	PA	October 8, 2010
7.	DOMINICK CASARELLA	WHITE PLAINS	NY	October 12, 2010
8.	HEROLD WITHERSPOON	NEW ROCHELLE	NY	October 13, 2010
9.	PRISCILLA BUCKHOUT	EXTON	PA	October 13, 2010
10.	LEONARD ANKER	BOYNTON DRIVE	FL	October 15, 2010
11.	MORRIS BONDER	BRIARCLIFF MANOR	NY	October 19, 2010
12.	JOHN MORANO	MAMARONECK	NY	October 19, 2010
13.	MARIE STEELE FOR THE ESTATE OF VINCENT STEELE	BRONXVILLE	NY	October 20, 2010
14.	SAUL & FRAN SINGER	WHITE PLAINS	NY	October 20, 2010
15.	JACK WEISS	YONKERS	NY	October 28, 2010
16.	MRS. A. COLEMAN POLL	MT. KISCO	NY	November 8, 2010