UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

IN RE: | **CASE NO. 15-81004**
LOUISIANA SAFETY ASSOCIATION
OF TIMBERMEN - SELF INSURED FUND | **CHAPTER 7**
DEBTOR

T. BRETT BRUNSON AS TRUSTEE FOR LOUISIANA SAFETY ASSOCIATION OF TIMBERMEN – SELF INSURED FUND | **ADVERSARY PROCEEDING No. 17-08003**

Versus

ASCENSION READY MIX, INC.,
O'NEALGAS, INC.,
E.A. HINTON WELL SERVICING INC., and
ALFORD MOTORS, INC.
(On behalf of themselves
and others similarly situated)

JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

NOW INTO COURT, through undersigned counsel, comes (a) T. BRETT BRUNSON, IN HIS CAPACITY AS TRUSTEE OF THE LOUISIANA SAFETY ASSOCIATION OF TIMBERMEN – SELF INSURED FUND ("**Trustee**"), and (b) O'NEALGAS, INC., E.A. HINTON WELL SERVICING, INC., ALFORD MOTORS, INC., CARDIOVASCULAR SURGERY OF ALEXANDRIA, LLC, COASTAL PIPE OF LOUISIANA, INC., and THE BANK (collectively, the "**Class Representatives**") who state:

INTRODUCTION

This defendant Class Action was commenced on behalf of the Louisiana Safety Association of Timbermen – Self Insured Fund ("**Fund**" or "**Timbermen**") to recover, from the Fund's members, amounts sufficient to satisfy all unpaid liabilities of the Fund. The plaintiff and

the Class Representatives, individually and on behalf of the Defendant Class ("Defendants") have reached a settlement of this matter, which they now present to the Court for preliminary approval.

I. BACKGROUND

1. Generally, under Louisiana law, employers must compensate their employees for injuries incurred in the course and scope of employment in accordance with applicable workers' compensation laws and standards. LA R.S. 23:1031, et seq. Louisiana employers are required to secure workers' compensation by, inter alia, obtaining an applicable policy of traditional insurance or entering into an agreement with a group self-insurance fund. LA R.S. 23:1168(A)(2) and (3). A group self-insurance fund is an "arrangement" through which five or more Louisiana employers, under certain conditions, agree to pool their workers' compensation liabilities to their employees; and, such an arrangement may include the establishment of a trust fund. LA R.S. 23:1195 (A)(1). The Fund is such a trust fund, formed among members of the Louisiana Safety Association of Timbermen as part of the above-described arrangement. Through indemnity agreements executed by them, members of the Fund agreed to pool their workers' compensation liabilities, each contributing toward the workers' compensation claims of Fund members' employees.

2. The Fund filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code on September 11, 2015 (the "**Chapter 7 Case**"); and, the Trustee was appointed to administer the Fund's bankruptcy estate ("**Estate**"). At the time of its filing of the voluntary petition for relief, Timbermen had asserted unpaid liabilities for workers' compensation benefits in excess of $40,000,000.

3. As part of the terms of the self-insurance Fund, the Trustee asserts that each Fund member has both statutory liability and contractual liability for the liabilities of the Fund. The Trustee further asserts that pursuant to applicable Louisiana statutes, each Fund member is liable

in solido for the liabilities of Timbermen after the inception of the fund year in which it became a Fund member. *See* LA R.S. 23:1195(A)(2) "[a]n agreement to pool liabilities under this Chapter shall be set forth in an indemnity agreement signed by the employer and fund representative acknowledging and agreeing to the assumption of the liabilities as set forth in this Subpart"; and, LA R.S. 23:1196(F), "[a] fund member shall be liable in solido for liabilities of the fund incurred by the fund after the inception of the fund year in which the employer becomes a member of the fund".

4. Rather than pursue all Fund members for the entirety of the liabilities of the Fund as solidary obligors, or pursue only certain members of the Fund for the entirety of the liabilities of the Fund, leaving such members to seek contribution from the other members of the Fund, and hopefully to provide by settlement a more equitable distribution of the liability for the liabilities of the Fund, the Trustee determined that a class action against the members of the Fund would be the most efficient and equitable means of seeking payment from Fund members.

Procedural History

5. The Trustee filed this class action ("**Class Action**"), known as *T. Brett Brunson as Trustee for Louisiana Safety Association of Timbermen – Self Insured Fund v. Ascension Ready Mix, Inc., O'Nealgas, Inc., E.A. Hinton Well Servicing Inc., and Alford Motors, Inc. (On behalf of themselves and others similarly situated)*, Case No. 17-08003, United States Bankruptcy Court, Western District of Louisiana, Lafayette Division on March 23, 2017.

6. On August 22, 2018, the Court entered an order certifying the above-captioned matter as a defendant class action ("**Certification Order**"). Through the Certification Order, the Court ultimately agreed with the Trustee's determination that the most efficient and effective

course of action both for the Fund's Estate and for the former members of Timbermen was a defendant class action.

7. In addition to the Class Representatives referenced above, the Trustee initially named Ascension Ready Mix, Inc., Jonesboro Bank ("**Jonesboro**") and Reliable Amusement ("**Reliance**") as defendants and class representatives. Ascension Ready Mix, Inc. was dismissed from this matter, prior to entry of the Certification Order, pursuant to a settlement agreement reached in the very early stages of this class action. Likewise, Jonesboro Bank also reached a settlement with the Trustee ("**Jonesboro Settlement**") which allowed for its dismissal from the class action prior to the Certification Order. The Jonesboro Settlement included a payment to the Fund's Estate plus a payment to be utilized toward defense of the claims brought against the Class in this matter. Jonesboro is to receive reimbursement for its defense contribution pursuant to the terms of the Jonesboro Settlement. Finally, following strenuous attempts by Reliance to defeat Class certification, including initiating an appeal of the Certification Order, the Trustee ultimately dismissed Reliance from the Class Action.

The Trustee's Claims against the Class

8. Through the Certification Order, the Class is defined as all members of Timbermen who were members from January 1, 1998 through September 11, 2015, except those members with whom the Trustee has settled and granted a release of liability[1].

9. The Trustee asserts that Class members are solidarily liable for all unpaid liabilities of the Fund. Specifically, the Trustee seeks a money judgment against the Class and each member of the Class in the full amount of all the liabilities of the Fund as of the filing of its Chapter 7 Case,

[1] Through notice of the Certification Order, Class members were given the opportunity to "opt out" or exclude themselves from the Class. On August 4, 2020, Class Counsel reported that a total of 30 Class members had elected to opt out of the Class [Doc. 220].

plus all reasonable costs and expenses incurred in this Class Action, including any counsel fees and expert witness fees.

II. THE SETTLEMENT

Summary of the Proposed Settlement

10. To avoid the uncertainties of trial, and to attempt to apportion liability of Class members equitably, the Trustee and the Defendants have agreed to resolve all claims by the Trustee against members of the Class who participate in the settlement and comply with the terms and conditions set forth in the Settlement Agreement ("**Settlement Agreement**" or "**Settlement**") filed with this Motion as **Exhibit S**, which includes exhibits to the Settlement Agreement.

11. As set forth above, the Trustee asserts that Class members are solidarily liable for the Fund's outstanding liabilities, as formally asserted against the Fund's Estate ("**Bankruptcy Claims**"). Thus, the Trustee believes the Estate is entitled to a judgment against each Class member for the total Bankruptcy Claims amount; and, if successful, the Trustee could enforce such multimillion-dollar judgment against each Class member until the judgment is satisfied in full. By contrast, the Settlement Agreement permits members of the Class to be released of all liability asserted through the Class Action by paying a fixed amount, significantly reduced from the amount originally asserted by the Trustee. Under the Settlement, such amount is based on the estimated amounts of timely filed, allowed Bankruptcy Claims attributable to workers' compensation-related claims, and unearned premium (for Timbermen policies) claims of Class members incurred in the years in which the Class members were members of the Fund (collectively, the "**Agreed Claims**"). The Trustee and the Defendants believe that the terms of the Settlement Agreement are fair to Class members and reduce each participating Class member's exposure for the Fund's liabilities, while spreading the payment more equitably among Class members.

Settlement Structure

12. The Settlement Agreement includes two components of liability for Class members: the Claims Component and the Attorneys' Fees Component.

Claims Component**:**

- Under the Settlement, the Agreed Claims are segregated by years in which Timbermen incurred liability for such claims; and, then such claim amounts are totaled by year to provide the total agreed liabilities for each year ("**Total Annual Liability**");
- For each year between 1998 and 2015, the Total Annual Liability is then divided by the total number of Timbermen members for the corresponding year to ensure that each member's amount is equal for each year ("**Annual Virile Share**");
- For each Class member, the Annual Virile Shares for each year in which the Class member was a member of Timbermen are totaled to yield the Class member's **Summed Annual Virile Share**.
- Each Class member's Summed Annual Virile Share has been calculated and is reflected in Exhibit SVS to the Settlement Agreement.

Attorneys' Fees Component:

- The Settlement provides for *pro rata* sharing of Class Counsel fees and expenses based on the amounts of Class members' Summed Annual Virile Shares. This *pro rata* share ("Class Counsel Pro Rata Share") is calculated as follows:
  - Each Class member's liability share, *vis a vis* other Members, is the quotient of the Class member's Summed Annual Virile divided by the total of all Class members' Summed Annual Virile Shares.

- Each Class member’s liability share is then multiplied by the total approved Class Counsel fees and expenses to yield the member’s Class Counsel Pro Rata Share.

- Class Representatives are entitled to a credit, up to the amount of their Class Counsel liability, for all fees and expenses that such Class Representatives previously paid to Class Counsel for defense in the Class Action (“**Fee Credit**”). In addition, if and once sufficient funds are available, Class Representatives will receive a refund of any fees and expenses paid to Class Counsel less any amount credited through the Fee Credit.

<u>Total Settlement Amount</u>

Given the uncertainties surrounding how many Class members are still in operation, the Settlement provides that each Class member will pay two times the sum of its Summed Annual Virile Share and Class Counsel Pro Rata Share (“**Payment Amount**”). The exact Payment Amount for each Class member cannot yet be calculated as the Bankruptcy Court has not yet approved fees and expenses for Class Counsel; however, an estimated range for Payment Amounts is provided in paragraph 19 below.

A. <u>The Class Settlement Satisfies the Requirements for Preliminary Approval</u>

13. The requirements for approval of class action settlements are set forth in Federal Rule of Civil Procedure 23. In approving a class action settlement, “the court must find that the proposed settlement is ‘fair, adequate, and reasonable’." *Henderson v. Eaton*, 2002 U.S. Dist. LEXIS 20840, at *5-6 (E.D. La. 2002), citing *Cope v. Duggins*, 203 F. Supp. 2d 650, 653 (citing *Cotton v. Hinton*, 559 F.2d 1326, 1330 (5th Cir. 1977)); *Dumont v. Charles Schwab & Co.*, 2000 U.S. Dist. LEXIS 10906 at *14 (*citing Parker v. Anderson*, 667 F.2d 1204, 1209 (5th Cir. 1982)). “The court must also make an independent and thorough [*6] inquiry into the reasonableness of the attorney's fees proposed in the settlement agreement.” *Id.*, citing *Strong v. BellSouth*

Telecomm. Inc., 137 F.3d 844, 849-50 (5th Cir. 1998). There is a general federal policy in favor of class action settlements. *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico*, 295 F.R.D. 112 (E.D. La. 2013); *see also Cotton*, 559 F.2d at 1331; *Turner v. Murphy Oil USA, Inc.,* 472 F. Supp. 2d 830, 843 (E.D. La. 2007); *Parker v. Anderson*, 667 F.2d 1204, 1209 (5th Cir.1982).

14. Approval of proposed class action settlements generally involves a two-step process, the first of which is a preliminary fairness evaluation by the Court. *In re Chinese Manufactured Drywall Prods. Liab. Litig*., 2012 U.S. Dist. LEXIS 5223, at *20 (E.D. La. 2012). With regard to motions seeking such approval, "the standards are not as stringent as those applied to a motion for final approval". *In re Pool Prods. Distribution Mkt. Antitrust Litig*., 2015 U.S. Dist. LEXIS 107197, at *29-30 (E.D. La. 2015), citing *Karvaly v. eBay, Inc*., 245 F.R.D. 71, 86 (E.D.N.Y. 2007); Manual for Complex Litigation (Fourth) § 21.63 ("At the stage of preliminary approval, the questions are simpler, and the court is not expected to, and probably should not, engage in analysis as rigorous as is appropriate for final approval.").

15. The Fifth Circuit Court of Appeals has established the following factors, known as the *Reed* factors, for courts to consider when determining whether a class action settlement is fair, adequate and reasonable: "(1) the existence of fraud or collusion behind the settlement; (2) the probability of plaintiffs' success on the merits; (3) the range of possible recovery; (4) the complexity, expense and likely duration of the litigation; (5) the stage of the proceedings and the amount of discovery completed; and (6) the opinions of class counsel, class representatives, and absent class members". *DeHoyos v. Allstate Corp*., 240 F.R.D. 269, 2007 U.S. Dist. LEXIS 12366 (W.D. Tex. 2007), citing *Reed v. General Motors Corp*., 703 F.2d 170, 172 (5th Cir. 1983). "In considering these factors, a court should keep in mind the strong presumption in favor of finding

a settlement fair." *Henderson*, 2002 U.S. Dist. LEXIS 20840, at *7, citing *Cotton*, 559 F.2nd 1326, 1331.

The lack of fraud or collusion favors settlement approval.

16. No fraud or collusion exists behind the settlement. "A strong presumption exists in favor of settlement if the [court] determines that the settlement resulted from arms-length negotiations between experienced counsel and was not tainted by fraud or collusion." *Turner v. Murphy Oil USA, Inc.*, 472 F. Supp. 2d 830,844 ((E.D. La. 2007). The parties agreed to terms for a settlement only after discovery (formal and informal), motion practice, consultation with experts in the fields of self-insurance trusts and financial accounting and extensive arms-length negotiations. The parties negotiated the liability of Class members and the form and substance of the proposed Class Notice, among other issues. The Class Action, as well as the settlement negotiations resulted in a settlement agreement which was the product of informed, non-collusive negotiations among counsel. Accordingly, this factor weighs in favor of approving the settlement.

Probability of success on the merits and the range of recovery support approval of the Settlement.

17. Factual and legal obstacles and potential range of recovery weigh in favor of the Settlement. "In determining the probability of plaintiffs' success on the merits, the court must compare the terms of the settlement with the likely rewards the class would have received following a successful trial of the case." *Henderson*, 2002 U.S. Dist. LEXIS 20840, *9, citing *Reed v. General Motors Corp.*, 703 F.2d 170, 172 (5th Cir. 1983). "The court is not to decide the issues or try the case to assess this factor, however, because, 'the very purpose of the compromise is to avoid the delay and expense of such a trial.'" *Id.* (quoting *Young v. Katz*, 447 F.2d 431, 433 (5th Cir. 1971)).

18. The Trustee has already demonstrated an actionable claim against the Class because he successfully achieved class certification. The parties primarily disagree regarding the extent of Class member liability. Specifically, while the Trustee contends that all Class members are liable for the entire unpaid liabilities of the Fund, the Defendants maintain that any liability of a Class member would be limited to the Fund's liabilities attributable to the years in which the Class member held membership in Timbermen. Further, although the Trustee bases the Fund's liabilities on the amounts identified in the Bankruptcy Claims, the Defendants dispute such amounts for numerous Bankruptcy Claims filed by the Fund's creditors; and, such values remain subject to objection and adjudication. Avoidance of such "sharply contested" issues is a central aim of settlement. *See Young*, 447 F.2d at 433.

19. When evaluating the possible range of recovery, the court should be mindful that "compromise is the essence of a settlement." *Turner, Inc.,* 472 F. Supp. 2d 830, 850. Further, a "proposed settlement need not obtain the largest conceivable recovery for the class to be worthy of approval; it must simply be fair and adequate considering all the relevant circumstances." *Klein v. O'Neal, Inc*., 705 F. Supp. 2d 632, 649 (N.D. Tex. 2010). In the context of a defendant class, such as the one at issue here, the goal is, of course, to avoid or minimize liability of Class members. If the Trustee ultimately prevails on the merits of the case, each Class member could potentially face judgment for solidary liability in an amount exceeding $30 million. In turn, the Trustee would likely incur significant costs in enforcing such judgments against any or all of the approximately 5,000 members, and the delay associated therewith would likely undermine the Trustee's goal of efficient administration of the Estate. Under the terms of the Settlement, the maximum liability

for compliant Class members ranges[2] from approximately $8 to $12,800 depending on the year(s) in which the Class member was a Timbermen member and the legal fees of Class Counsel ultimately approved by this Court.

The complexity, expense, and likely duration of litigation and the stage of proceedings and amount of discovery completed weigh in favor of settlement approval.

20. The fourth and fifth *Reed* factors also favor approval of the Settlement because of the anticipated complexity, expense, and likely duration of the litigation, as well as the stage of the proceedings and the amount of discovery completed. In assessing these factors, "courts consider the uncertainties of litigation and compare the settlement to potential future relief. *In re Shell Oil Refinery, 155 F.R.D. 552, 563 (E.D. La. 1993)*; *and Beaulieu v. EQ Indus. Servs., Inc., No. 5:06-CV-00400-BR, 2009 U.S. Dist. LEXIS 63574, 2009 WL 2208131, at *26 (E.D.N.C. July 22, 2009)* ('[T]he settlement terms reflect plaintiffs' counsel's consideration of the strength of their case, and the delay and cost of proceeding to trial balanced against the certainty, relative promptness, and amount of relief the settlement provides.')". *In re Oil Spill*, 295 F.R.D. 112, 147. These factors further ask the Court to consider "whether the parties have obtained sufficient information to evaluate the merits of the competing positions." *In re Educ. Testing Serv., 447 F. Supp. 2d at 620* (quotations omitted). *Id*. Under such evaluation, " 'the question is not whether the parties have completed a particular amount of discovery, but whether the parties have obtained sufficient information about the strengths and weaknesses of their respective cases to make a reasoned judgment about the desirability of settling the case on the terms proposed . . . .'" *Id*., citing *In re Educ. Testing Serv., 447 F. Supp. 2d at 620*-621.

[2] This estimated range is based on the smallest Class member claim liability (Class member who was a Fund member only in 2002), the largest Class member claim liability (Class member who was a Fund member from 1998-2015), and an attorneys' fees award of $500,000.

21. At the time the Settlement was reached, the parties were able to evaluate the class members' liabilities and conduct informed negotiations. Specifically, the parties had consulted with experts in the fields of self-insurance trusts and financial accounting, as well as gained information through formal discovery, which included depositions, interrogatories, and requests for production. In addition, extensive informal discovery was conducted, including during the claims administration process in the Fund's Chapter 7 Case. The parties have conducted wide-ranging investigations through both formal discovery and informal discovery, and the use of and/or consultation with experts. "Extensive information allow[s] the [p]arties to assess their positions in great detail and make a reasonable decision on settlement, which is all that is required." *In re Oil Spill*, 295 F.R.D. 112, 149, citing *In re Combustion, 968 F. Supp. at 1127.*

22. At Settlement stage, fundamental issues concerning liability valuation remained in dispute. Resolving such issues through litigation in the Chapter 7 Case, trial in the Class Action and, presumably, appeal(s), would likely be burdensome and costly. As a result, the complexity, expense, likely duration of the litigation, and amount of discovery completed all favor settlement.

<u>Opinions of Class Counsel support Settlement approval</u>.

23. "Counsel are the Court's 'main source of information about the settlement'". *Turner*, 472 F. Supp. 2d 830, citing Manual for Complex Litigation § 21.641. The Fifth Circuit has consistently recognized that the opinion of class counsel should be given great weight. *Klein v. O'Neal*, Inc., 705 F. Supp. 2d 632, __ (N.D. Tex. 2010); see *Cotton*, 559 F.2d at1330 ("[T]he trial court is entitled to rely upon the judgment of experienced counsel for the parties."). This Court appointed Roedel Parsons, *et al*., and The Steffes Firm as Class Counsel in recognition of their significant experience in class action matters and bankruptcy proceedings, respectively. After thorough discovery (formal and informal), motion practice, consultation with an expert in the field

of self-insurance trusts and participation in extensive arms-length negotiations, Class Counsel have determined that the proposed settlement is fair, adequate, and reasonable for the Class. With regard to opinions of members of the defendant Class, that issue cannot be fully analyzed until Class notice has been transmitted. Thus, subject to this Court's preliminary approval of the Settlement, Class Counsel will address any opposition to the Settlement in the final approval motion to be filed before the hearing on final settlement approval ("**Fairness Hearing**").

B. ATTORNEYS FEES

24. Consideration of the terms of any proposed award of attorney's fees is required for approval of a class action settlement. Fed. Rule Civ. Pro. 23(e)(2)(C)(iii). The reasonableness of attorneys' fees is evaluated for two key reasons. *Cope v. Duggins*, 203 F. Supp. 2d 650, 654 (E.D. La. 2002). "First, the Court reviews attorney fees to protect class members from unfair settlements and to minimize conflicts of interest that may arise between class members and their attorney representatives." *Id.*, citing *Strong*, 137 F.3d at 849. "Second, the Court examines counsel compensation to prevent promulgating a public perception that attorneys exploit the members of their class to obtain excessive fees." *Id.*

Under the terms of the Settlement, the Class shall share responsibility for Class Counsel's fees in proportion to the claims liability assessed among each other. Class Counsel has maintained time entries for work performed and through separate motion, will seek approval of compensation equal to the amount of their hourly work and reimbursement of reasonable expenses incurred on behalf of the Class. Pursuant to the terms of the Jonesboro Settlement, Class Counsel was provided with $300,000 to use as defense funding. At the time of the filing of this motion, such amount has been exhausted. Based upon the requirements for settlement approval and responses they received from the Class notice regarding the Certification Order, Class Counsel anticipate that a significant

amount of work may potentially be required through the end of the settlement approval process and possibly upon the Trustee's payment demand to Class members. Class Counsel believes their existing unpaid services and expenses and such future services to be rendered will result in fees and expenses totaling less than $200,000. Thus, Class Counsel intends to request approval for payment of total fees and expenses in the maximum amount of $500,000[3] ("**Fee Motion**"), with any overage being applied to the Settlement Fund. The Fee Motion will request that Class Counsel be paid the amount of all unpaid fees and expenses incurred through the date the motion is granted; and, that any fees and expenses incurred thereafter be paid by the Trustee from the Settlement Fund upon receipt of Class Counsel's certification of fees and expenses due. Under the terms of the Settlement, any remaining funds held by the Trustee in the Settlement Fund shall be refunded to Class members. For avoidance of doubt, because Class Counsel has already received payment of $300,000 through the Jonesboro Settlement, subject to Court approval, Class Counsel would only be entitled to receive up to $200,000 from the Settlement Fund. If approved, the entire $500,000 would be utilized to calculate the Payment Amounts due by Class members, which amounts would be deposited into the Settlement Fund and distributed in accordance with the terms of the Settlement, including reimbursements due to Jonesboro Bank under the Jonesboro Settlement and due to Class Representatives for fees advanced for defense of the Class Action.

III. APPROVAL OF SETTLEMENT AND NOTICE

A. The Court should preliminarily approve the Settlement.

25. "If the proposed settlement discloses no reason to doubt its fairness, has no obvious deficiencies, does not improperly grant preferential treatment to class representatives or segments

[3] Class member liability for Class Counsel fees ranges from approximately $1 to $880, depending on the year(s) in which the Class member was a member of the Fund. These Class Counsel fee amounts are included in the liability range set forth in Paragraph 19 herein.

of the class, does not grant excessive compensation to attorneys, and appears to fall within the range of possible approval, the court should grant preliminary approval." *Id.,* citing *In re Stock Exch. Options Trading Antitrust Litig*., No. 99 Civ.0962, 2005 WL 1635158, at *5 (S.D.N.Y. July 8, 2005); *McNamara v. Bre-X Minerals Ltd*., 214 F.R.D. 424, 430 (E.D. Tex. 2002).

Through the Settlement, Class members will, *inter alia*, significantly limit their liability exposure for the Fund's unpaid workers' compensation liabilities, ensure fair and equitable apportionment of liability among Class members, and minimize attorneys' fees that would otherwise be incurred by each Class member in the defense of the Trustee's claims against such members individually. The Settlement was negotiated at arm's length after discovery and motion practice (in the Class Action and the Chapter 7 Case) and consultation with experts in the fields of self-insurance trusts and financial accounting, all of which permitted the parties to evaluate the strengths and weaknesses of their claims and defenses. As set forth herein, there is no indication of collusion between the parties, or any preferential treatment provided to the Class Representatives or any segment of the Class. Movants respectfully submit that the Settlement satisfies the requirements for preliminary approval by this Court.

B. Notice and Notice Plan

26. Movants propose that, after entry of this Court's order giving preliminary approval to the Settlement Agreement, the Trustee send notice to the Class in the form of the Class Notice filed as **Appendix A** to the Proposed Order submitted herewith, by first class mail to all Class members for whom the Trustee has current addresses, less those addresses for which prior notices were returned, and that the Trustee publish the advertisement attached as **Appendix B** to the Proposed Order submitted herewith once in each of the following newspapers: (1) Winn Parish Enterprise, (2) The Advocate, (3) The New Orleans Advocate/The Times Picayune, (4) The Daily

Advertiser, (5) The Shreveport Times, also known as The Times, (6) The Town Talk, and (7) The Ouachita Citizen, after all notices required under CAFA are transmitted and at least 90 days prior to the Fairness Hearing (the "**Notice Deadline**"). In addition, on or prior to the Notice Deadline, the Trustee will email the Class Notice (or cause it to be emailed) to all Class members who can be identified, for whom the Fund has an email address on record, and who have not already opted out. The Fund has maintained a list of all Class members and thus all Class members may be identified. The Trustee will email such Notice (or cause it to be emailed) to the email addresses in the Fund's books and records for the Class Members; however, the Fund does not have an email address for all Class Members in its records. Prior to the Notice Deadline, the Trustee will display (or cause to be displayed) on the website dedicated to this Class Action (www.timbermenclassaction.com), the following documents: (1) the Class Notice; (2) the Settlement Agreement, including all exhibits and attachments thereto; and, (3) the order granting this Joint Motion for Preliminary Approval of Settlement. Such documents will be displayed in addition to the documents currently existing on said website, as previously approved by this Court in connection with notice of Class certification [Doc. 205]. Finally, after the filing of a motion to approve fees and expenses of Class Counsel, but prior to the Notice Deadline, the Trustee will also display (or cause to be displayed) on the website dedicated to this Class Action (www.timbermenclassaction.com), said motion of Class Counsel.

27. Movants assert that the proposed Class Notice meets the requirements of Fed Rule Civ. Pro. 23(e); and, that it plainly informs Class members of: (a) the terms of the Settlement; (b) the nature and extent of Class member liability and conditions for release of claims asserted against Class members; (c) maximum attorneys' fees that will be sought; (d) the opportunity to opt out of and/or object to the settlement; and, (e) the time, date and place of the Fairness Hearing.

28. Movants desire for the Court to enter an order, in the form of the proposed Preliminary Approval Order, attached to the Settlement Agreement as Exhibit 1, (a) granting preliminary approval of the Settlement Agreement; (b) approving the proposed Class Notice and proposed plan for dissemination of the Class Notice; (c) establishing procedures and deadlines as requested in the Proposed Schedule (below); and, (e) scheduling the Fairness Hearing for a date which complies with any applicable requirements of CAFA.

Proposed Schedule

_______________, 2022 [10 days after Preliminary Approval Order]	Deadline for Movants, as applicable, to file: a) Motion to Enter into Settlement pursuant to Bankr. Rule 9019 ("9019 Motion"); b) Motion to Refer 9019 Motion to Lafayette Division of this Court; and, c) Motion for Approval of Class Counsel Fees and Expenses ("Fee Motion")
_______________, 2022 [20 days after Preliminary Approval Order]	Deadline for transmission of Class Notice
_______________, 2022 [50 days after Preliminary Approval Order]	Deadline for Class members to: a) File any objection to Settlement and Fee Motion and basis therefor; b) File any notice of intent to appear at the Fairness Hearing, indicating with or without counsel, as applicable and appropriate c) Opt out or request exclusion from the Settlement
___________, 2022 [80 days after Preliminary Approval Order]	Deadline for Movants, as applicable, to file: a) List of parties who timely and properly requested to opt out or exclusion from the Settlement; b) Certification of Class Notice transmission c) Joint Motion for Final Approval of Settlement, including any response to any objection filed
____________, 2022 [95 days after Preliminary Approval Order]	Fairness Hearing and Hearing on Rule 9019 Motion

Respectfully submitted,

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T. BRETT BRUNSON AS TRUSTEE FOR LOUISIANA SAFETY ASSOCIATION OF TIMBERMEN – SELF INSURED FUND **ADVERSARY PROCEEDING No. 17-08003**

Versus

ASCENSION READY MIX, INC.,
O'NEALGAS, INC.,
E.A. HINTON WELL SERVICING INC., and
ALFORD MOTORS, INC.
(On behalf of themselves
and others similarly situated)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the *Joint Motion For Preliminary Approval Of Class Action Settlement* has been served upon the following parties through this Court's CM/ECF Electronic Notification System:

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Baton Rouge, Louisiana, this 30th day of March, 2022

/s/ Samantha J. Chassaing
Samantha J. Chassaing