

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DIANE BROWN, et al.,
Plaintiffs,
v.
AIRGAS ON-SITE SAFETY SERVICES,
INC., et al.,
Defendants.

Case No. 13-cv-04975-JST

**ORDER GRANTING JOINT MOTION
TO DISMISS ACTION WITHOUT
PREJUDICE**

Re: ECF No. 35

Before the Court is the parties’ Joint Motion to Dismiss this Action Without Prejudice. ECF No. 35. The parties state that they have reached an agreement to settle this case, in conjunction with two companion class actions currently pending in Los Angeles County Superior Court before Judge Elihu M. Berle: Louise Robinson, et al, v. Airgas On-Site Safety Services, Inc., No. BC523502 (“Robinson”), and Benjamin Anderson, Francisco Maiava, et al. v. Airgas On-Site Safety Services, Inc., Gulf South Safety Consultants, LLC and Responsible Staffing, LLC, No. BC537452 (“Anderson”). Id. at 3-4. Pursuant to the settlement agreement, Plaintiffs Diane Brown and Kierre Townsend re-filed their class action complaint in Los Angeles County Superior Court on September 30, 2014. Id. at 5; ECF No. 35-1, Ex. A. On October 13, 2014, Plaintiffs filed a Notice of Related Case in this re-filed action, notifying the Superior Court of its relation to the Robinson action. ECF No. 35-1, Ex. B. On November 17, 2014, Defendant Airgas On-Site Safety Services, Inc. returned its Notice and Acknowledgement of Receipt of the Summons and Complaint in the re-filed Brown action, and the parties now anticipate that the case will soon be deemed related to Robinson and assigned to Judge Berle. Id. Ex. C; ECF No. 35 at 5. The parties anticipate that their settlement agreement, encompassing all claims in the Brown, Robinson, and Anderson actions, will be fully executed no later than December 12, 2014. ECF

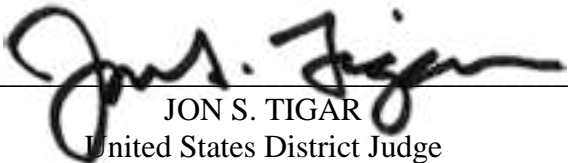
1 No. 35 at 6. A hearing on the Motion for Preliminary Approval of the Settlement has been set for
2 hearing on February 19, 2015, before Judge Berle. Id.

3 The parties agree that no prejudice to Plaintiffs or putative class members will result from
4 the dismissal and re-filing of this action in state court. Id. First, they explain that the parties have
5 agreed that the Brown state court action relates back to the filing of Robinson, the first-filed
6 matter, for statute of limitations purposes, expanding the scope of remedies by three weeks. Id.
7 Second, the parties agree that the class definition in the re-filed Brown action is equivalent to that
8 in the First Amended Complaint in this action, and therefore no putative class member or opt-in
9 plaintiff will be excluded by virtue of this action being re-filed and resolved in state court. Id. at 7.
10 Finally, the parties maintain that approval and administration of the settlement by one judge,
11 Judge Berle, will reduce costs and administrative expenses, resulting in greater proportional net
12 recovery and a lower probability of confusion for class members. Id.

13 Good cause appearing, the Motion is hereby GRANTED. The action is dismissed without
14 prejudice pursuant to Fed. R. Civ. P. 41(a)(2).

15 **IT IS SO ORDERED.**

16 Dated: November 26, 2014

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19 JON S. TIGAR
United States District Judge