

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GREG MCMAHON and ADAM
GOLDBERG,

Plaintiffs,

v.

GENERAC POWER SYSTEMS, INC.,

Defendant.

Civil Action No. 2:21-cv-05660

**ORDER GRANTING PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS**

WHEREAS, Plaintiffs and Defendant Generac Power Systems, Inc. executed an agreement to settle this matter, subject to Court approval;

WHEREAS, the Court reviewed the parties' Settlement Agreement and issued an order granting preliminary approval to it on April 18, 2023 (ECF No. 23);

WHEREAS, through arms'-length negotiations, including through a mediation with the Honorable Diane Welsh, an experienced mediator at JAMS, Plaintiffs agreed to apply for the following: attorneys' fees and reimbursement of costs in an amount not to exceed \$1,500,000 and (b) service awards of \$2,500 each to Greg McMahon and Adam Goldberg;

WHEREAS, the Parties agreed that Generac shall not pay, or be obligated to pay, any amounts in excess of those stated above;

WHEREAS, Generac reserved the right to oppose any fee request, whether for attorneys' fees or services awards, that it considers unreasonable;

WHEREAS, Class Counsel submitted their detailed time *in camera* for the Court's review, and the Court has had an opportunity to review and consider it;

WHEREAS, after holding a hearing (ECF 28) and considering Plaintiffs' motion (ECF 25), memorandum of law and all supporting materials (including the declarations from counsel) the Court having concluded that Plaintiffs' request for fees, expenses, and the payment of service awards is reasonable and permissible under the applicable law;

IT IS ORDERED AS FOLLOWS:

1. The Court finds the attorney fees and costs requested by Class Counsel are fair and reasonable, given Class Counsel's lodestar of \$594,885.00 at the time of filing their motion. The Court has reviewed the declarations and time sheets submitted by Class Counsel and finds Class Counsel reasonably spent over 795 hours representing the interests of the Class through this litigation, that Class Counsel's hourly rates are reasonable and in line with the prevailing rates in the community for complex class action litigation, and that the costs incurred to prosecute the litigation were reasonable.

2. The Court finds that the factors enumerated in *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190 (3d Cir. 2000) support Class Counsel's request. Specifically:

- a. The number of persons benefitted supports Class Counsel's fee request, as the settlement provides the opportunity for substantial relief to current and former owners of over 222,000 Class Generators.
- b. The absence of objections by Settlement Class Members supports Class Counsel's fee request, as there have been no objections to the settlement or to Class Counsel's fee request.
- c. The skill and efficiency of the attorneys involved supports Class Counsel's fee request, as the settlement provides substantial benefits to the Settlement Class Members in the face of significant risk of further litigation.

- d. The complexity and duration of the litigation supports Class Counsel's fee request, as this complex class action litigation has been pending for over eighteen months and, including a lengthy pre-suit investigation, has required over four years of extensive work by Class Counsel to reach a successful conclusion.
 - e. The risk of nonpayment supports Class Counsel's fee request, as Class Counsel brought this litigation on a contingency basis and risked non-payment as a result.
 - f. The amount of time devoted by Class Counsel supports the fee request, as over 795 hours of contingent work was performed in this matter as of August 9, 2023. This work included discovery, settlement negotiations, class member interviews, mediation, and Class Counsel's own independent investigation into the alleged defect.
 - g. The fee awards in similar cases supports the fee request, as the fee request in this case is on the low end of similar consumer class action settlements in the Eastern District of Pennsylvania. Further, the lodestar multiplier of 2.50 is well within the range of multipliers awarded in class action settlements in the Eastern District of Pennsylvania.
3. The Court has also reviewed Class Counsel's \$11,942.12 in expenses, and finds the expenses were reasonable and necessary to the prosecution of the litigation.
 4. In light of the foregoing, and upon the Court's consideration of the briefing and declarations submitted, Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards is **GRANTED.**

5. Defendant Generac Power Systems, Inc. shall pay Class Counsel \$1,500,000.00 for their attorneys' fees and expenses, in accordance with the Settlement Agreement.

6. Defendant Generac Power Systems, Inc. shall also make an additional payment totaling \$5,000.00 to Class Counsel for the service awards of the two Plaintiffs, which amounts shall then be remitted by Class Counsel to the Plaintiffs.

7. All other payments and costs shall be borne as set forth in the Settlement Agreement or as agreed to by the parties.

IT IS SO ORDERED.

Dated: September 27, 2023

/s/ Gerald J. Pappert
Hon. Gerald J. Pappert
United States District Judge