

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

GLEN GRAYSON, DOREEN
MAZZANTI, DANIEL LEVY, DAVID
MEQUET and LAUREN HARRIS,
individually and on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

GENERAL ELECTRIC COMPANY,

Defendant.

No. 3:13-cv-01799-MPS
(Consolidated Docket No.)

**ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

Plaintiffs' Motion for Preliminary Approval of Class Action Settlement came before this Court. The Court, having considered the Class Action Settlement Agreement and Release and the Exhibits attached thereto (hereafter collectively, the "Settlement Agreement"); having considered the Motion for Preliminary Approval and Memorandum of Law in support thereof and exhibits thereto (with all supporting documents); and good cause appearing, **HEREBY ORDERS THE FOLLOWING:**

1. This Order incorporates by reference the definitions in the Settlement Agreement, and all terms defined herein shall have the same meaning in this Order as set forth in the Settlement Agreement. This Order supersedes and amends 28 U.S.C. § 1715(b) the Court's Order of March 7, 2017, certifying a litigation class (Doc. 257).
2. The Court preliminarily finds that the requirements for class certification under Fed. R. Civ. P. 23(a) and 23(b)(3) are satisfied for settlement purposes only with respect to the following Class:

All persons (other than retailers, resellers, wholesalers, the presiding judge,

chambers staff, or members of the families of the presiding judge or chambers staff) residing in the United States of America who purchased or owned a microwave oven bearing the GE Profile or GE Monogram brand, and bearing a model number beginning with JEB1090, JEB1095, ZMC1090, or ZMC 1095, at any time during the period from January 1, 1995 through the date of the entry of this Order.

On a preliminary basis, the Court finds that the proposed Settlement Class is so numerous that the joinder of all members is impracticable, given that approximately 68,000 microwave ovens of the type described above were manufactured. The Court also finds that the claims of the Plaintiffs are typical of the claims of the Class, because, although different class members may have incurred differing amounts of harm depending on whether the glass in their ovens broke, the named Plaintiffs, most or all of whom did suffer glass breakage, have incentives to seek to maximize an award of damages under all damages theories – including benefit-of-the-bargain damages, which would apply to all class members – should Plaintiffs and the Class Members prove their common claims of defect and concealment. This circumstance, in addition to the experience of Class counsel, persuades the Court on a preliminary basis that that the Plaintiffs and Settlement Class Counsel will fairly and adequately protect the interests of the Class.

3. Finally, the Court finds on a preliminary basis that questions of law or fact common to the Class Members – including the question of defect and the question of concealment – predominate over any questions affecting only individual Class Members. On this point, the Court adopts and incorporates herein the reasoning of the late Judge Eginton, to whom this case was previously assigned, as set forth in Docket No. 257 at 12-13. Further, although Judge Eginton's ruling certified a narrower class and only as to certain liability issues, and properly raised concerns about the individualized nature of damages issues, those concerns do not constitute grounds to withhold at least preliminary approval

of certification of this broader proposed class for settlement purposes. That is so because, under the proposed settlement, there will be no need to prove damages on an individualized basis, except through a simplified claims procedure, which will seek only to distinguish between valid and invalid claims and to place valid claims in one of two damages categories, i.e., those who suffered glass breakage and thus are entitled to a \$300 award and those who did not and are thus entitled only to a \$5 award, either in the form of a check or a rebate on a future purchase (in both cases, upon submission of adequate proof). During a telephone conference held on January 2, 2020, a transcript of which will be filed, the parties explained how they derived these amounts through settlement discussions, and their explanations appeared to be reasonable on a preliminary basis. Thus, non-uniformity among class members as to harm actually incurred should not be an obstacle to certifying this class for settlement purposes. In addition, although differences in state law earlier shaped the proposed classes the Plaintiffs sought to certify before Judge Eginton, several courts have found such differences to be irrelevant when the Court is faced with whether to certify a proposed class for settlement purposes, because a settlement contemplates that there will be no trial and thus no need to craft jury instructions reflecting the varying elements in different states' laws. *See, e.g., Sullivan v. DB Investments, Inc.*, 667 F.3d 273, 303-04 (3d Cir. 2011); *see also Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 620 (1997) ("Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems, for the proposal is that there be no trial." (internal citation omitted)).

4. This Court has personal jurisdiction over the defendant, General Electric Company ("GE") because GE does business in Connecticut, had its principal place of business in

Connecticut at the time this suit was filed, and has consented to this Court's jurisdiction.

This Court has subject matter jurisdiction over this action under the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because there is diversity of citizenship between at least some Settlement Class Members and GE, and the amount in controversy exceeds \$5 million.

5. The Court appoints Glen Grayson, Doreen Mazzanti, Daniel Levy, David Mequet, and Lauren Harris as Settlement Class Representatives for settlement purposes only.
6. The Court appoints Epiq Class Action & Claims Solutions, Inc., an experienced class action settlement administration firm, as the Settlement Administrator, responsible for performing the obligations of the Settlement Administrator under the Settlement Agreement.
7. The Court appoints Hassan A. Zavareei, Esq. and Ann Haac, Esq. of Tycko & Zavareei LLP and Robert A. Izard, Jr., Esq., Seth R. Klein, Esq., and Mark P. Kindall, Esq., of Izard Kindall & Raabe LLP as Settlement Class Counsel for settlement purposes only.
8. The Court appoints Antonio C. Robaina (retired Connecticut Superior Court Judge) of McElroy, Deutsch, Mulvaney & Carpenter LLP, Hartford, Connecticut, as the Neutral Evaluator.
9. The Court preliminarily approves the Settlement Agreement as fair, adequate, and reasonable and preliminarily approves the terms of the Settlement Agreement.
10. The Court hereby approves on a preliminary basis the compensation to the participating Settlement Class Members provided for in the Settlement Agreement. It appears to the Court on a preliminary basis that the settlement terms are fair, adequate and reasonable as to all Class Members when balanced against the probable outcome of further litigation. It further appears that counsel for the Parties at this time are able to reasonably evaluate

their respective positions. It further appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Civil Action. It also appears that the Settlement has been reached as the result of lengthy, intensive, serious and non-collusive, arms' length negotiations, after years of litigation.

11. The Court approves the form and content of the proposed Settlement Notices attached as Exhibits A, B, C and D to the Settlement Agreement, and the notice plan described in Paragraph 38 of the Settlement Agreement. The Court also approves the form and content of the Claim Forms attached as Exhibit E to the Settlement Agreement.
12. The Court finds that the distribution of the Settlement Notice in the manner and form set forth in the Settlement Agreement: (i) is the best practicable notice; (ii) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Civil Action and of their right to object or to exclude themselves from the proposed Settlement; and (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice. The Court directs the Settlement Administrator to send the Settlement Notice to the Class Members in accordance with the Settlement Agreement.
13. The Settlement Notice shall be mailed, e-mailed and disseminated by the other means described in the Settlement Agreement to the Class Members, and the Settlement Administrator shall establish the settlement website no later than 60 days from the date of this Order. If any Settlement Notice that is mailed is returned undeliverable, the Settlement Administrator shall make a reasonable effort to find an updated address for the Class Member and promptly re-mail the Settlement Notice to the new address. In the event that any mailed notice is returned as undeliverable a second time, no further

mailing shall be required. The Settlement Administrator shall not be required to attempt to find updated e-mail addresses if an e-mail is returned undeliverable.

14. Any Class Member may opt out of the Settlement by submitting an opt-out request to the Settlement Administrator as instructed in the Settlement Notice by mail, postmarked no later than 120 days from the date of this Order. All opt-out requests must be submitted as provided in the Settlement Notice and Paragraph 38(h) of the Settlement Agreement. In accordance with the Settlement Agreement, any Class Member who submits a valid and timely opt-out request shall not be a Settlement Class Member, shall be barred from participating in the Settlement, shall have no right to object to the Settlement, and shall receive no benefit from the Settlement.
15. If a Final Order and Judgment is entered approving the Settlement, Class Members who have not submitted a valid and timely opt-out request shall be bound by all determinations of the Court, the Settlement Agreement (including but not limited to the Releases therein) and Judgment, even if such Settlement Class Member never submitted a Claim Form. If a Final Order and Judgment is entered approving the Settlement, all Settlement Class Members who have not made timely, written requests for exclusion shall be conclusively deemed to have fully and finally released all of the Released Persons from any and all Released Claims.
16. Any Class Member who does not opt out of the Class may mail an objection to the settlement to the Clerk of Court as instructed in the Settlement Notice, or may file a motion to intervene. All written objections and supporting papers must: (1) clearly identify the case name and number (Grayson v. General Electric Company, Case No. 3:13-cv-01799-MPS), (2) identify the objector's full name, address, email address, and telephone number; (3) provide an explanation of the basis upon which the objector claims

to be a Settlement Class Member; (4) identify all grounds for the objection, accompanied by any legal support for the objection; (5) include the identity of all counsel who represent the objector, including any former or current counsel who may seek compensation for any reason related to the objection to the Settlement, the fee application, or the application for Service Awards; (6) include a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; (7) include a list of any persons who will be called to testify at the Final Approval Hearing in support of the objection; (8) include all documentary evidence that will be offered at the Final Approval Hearing in support of the objection; (9) identify all counsel representing the objector who will appear at the Final Approval Hearing; (10) include the objector's signature (an attorney's signature is not sufficient); (11) be submitted to the Court either by mailing them to the Clerk of Court, Abraham A. Ribicoff Federal Building, United States District Court, 450 Main Street Suite A012, Hartford, CT 06103, or by filing them in person at any location of the United States District Court for the District of Connecticut, with a copy to GE Counsel and Settlement Class Counsel; and (12) be filed or postmarked on or before 120 days after entry of this Order.

17. Any Class Member who fails to submit timely written objections and/or file a motion to intervene with the Clerk of Court in the manner specified in the Settlement Agreement shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. Any Class Member who fails to submit a timely written objection in accordance with the Settlement Agreement (as specified in Paragraph 16 above) may not be heard to oppose the Settlement at the Final Approval Hearing unless otherwise ordered by the Court.

18. Settlement Class Members have the right to exclude themselves from the Settlement and

pursue a separate and independent remedy against GE by complying with the exclusion provisions set forth herein. Settlement Class Members who object to the Settlement shall remain Settlement Class Members, and have voluntarily waived their right to pursue an independent remedy against GE. To the extent any Settlement Class Member objects to the Settlement, and such objection is overruled in whole or in part, such Settlement Class Member will be forever bound by the Final Order and Judgment of the Court, subject to the right of appeal.

19. The Court further finds that the Class Action Fairness Act Notice provided by the Settlement Administrator on behalf of GE pursuant to the Settlement Agreement, as verified in the Declaration of Stephanie J. Fiereck (ECF No. 361), was in compliance with 28 U.S.C. § 1715(b), and that the Class Action Fairness Act Notice was given more than 90 days prior to any order of final approval, in accordance with 28 U.S.C. § 1715(d).
20. A Final Approval Hearing is scheduled for June 23, 2020 at 10:00 a.m. in Courtroom 2 of the Abraham A. Ribicoff Federal Building, United States District Court, 450 Main Street Suite A012, Hartford, CT 06103, to determine all necessary matters concerning the Settlement, including: (a) whether the proposed Settlement of the Civil Action on the terms and conditions provided for in the Settlement Agreement is fair, adequate and reasonable and should be finally approved by the Court; (b) whether an Order and Final Judgment, as provided in the Settlement Agreement, should be entered herein; (c) whether the compensation to the participating Settlement Class Members contained in the Settlement Agreement should be approved as fair, adequate, and reasonable to the participating Settlement Class Members; and (d) to make, in the Court's discretion, an award of attorneys' fees and expenses to Settlement Class Counsel and Service Awards

to the Settlement Class Representatives (subject to the limitations of Paragraph 46 of the Settlement Agreement). The date of the Final Approval Hearing may be changed by the Court, with notice provided only on the Court's docket on PACER (<http://ecf.ctd.uscourts.gov>) and the settlement website.

21. Settlement Class Counsel shall file their Motion for Final Approval, any papers in support of final approval of the Settlement, and any papers in support of their requested award of attorneys' fees and expenses and the Settlement Class Representatives' Service Awards no later than 75 days from the date of this Order.
22. Counsel for the Parties shall serve and file any response to any objections to the Settlement no later than 141 days from the date of this Order.
23. The Settlement Agreement is not a concession or admission, and shall not be used against GE or any of the Released Entities as an admission or indication with respect to any claim of any fault or omission by GE or any of the Released Entities. In the event the Settlement does not become effective in accordance with the terms of the Settlement Agreement, or the Settlement Agreement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Settlement Agreement. Whether or not the Settlement Agreement is finally approved, neither the Settlement Agreement, nor any document, statement, proceeding or conduct related to the Settlement Agreement, nor any reports or accounts thereof, shall in any event be deemed or construed to be an admission or evidence of any violation of any statute or law, of any liability or wrongdoing by GE or any of the Released Entities or of the truth of any of the claims or allegations contained in Complaint; and evidence thereof shall not be discoverable or used directly or indirectly

by the Class or any third party, in any way for any purpose, except that the provisions of the Agreement may be used by the Parties to enforce its terms, whether in this action or in any other action or proceeding.

24. Pending the Final Approval Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order, are stayed.
25. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.
26. To facilitate administration of the Settlement Agreement pending final approval, the Court hereby enjoins all Settlement Class Members from filing or prosecuting any claims, suits, or administrative proceedings regarding claims released by the Settlement Agreement unless and until such Settlement Class Members have submitted valid opt-out requests.
27. The Court orders the following schedule for further proceedings:
 - a. The Settlement Administrator will mail, email and otherwise distribute the Settlement Notice to the Class Members, conduct the Internet/social media notice and launch the Settlement website on or before March 15, 2020.
 - b. Settlement Class Counsel will file motions for (i) award of attorneys' fees, reimbursement of litigation expenses, and Settlement Class Representative Service Awards; and (ii) Final Approval of the Settlement on or before March 30, 2020.
 - c. Opt-out notices and objections must be mailed to the Settlement Administrator as provided in the Settlement Notice and postmarked no later than May 14, 2020.

