No. 24-750

In the

Supreme Court of the United States

MARTHA ADAMS, *et al.*,

Petitioners,

v.

ANGELO RESCIGNO, SR., AS EXECUTOR OF THE ESTATE OF CHERYL B. CANFIELD *et al.*,

Respondents,

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

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RESPONDENT EQUINOR USA ONSHORE PROPERTIES' BRIEF IN OPPOSITION

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Questions Presented

1. Where a district court determines that every member in a class settlement suffered a concrete injury, can the district court approve a class settlement consistent with Article III?

2. Does a district court satisfy Federal Rule of Civil Procedure 23(e)(2)'s requirements when it expressly considers each factor in Rule 23(e)(2) and determines that the class settlement is fair?

Corporate Disclosure Statement

Equinor USA Onshore Properties Inc. is owned by Equinor USA Properties Inc. Equinor USA Properties Inc. is owned by Equinor US Holdings Inc., which is owned by Equinor Energy AS. Equinor Energy AS is owned by Equinor ASA, a publicly traded entity. Equinor ASA is a publicly traded corporation organized under the laws of the Kingdom of Norway, which indirectly owns more than 10% of Equinor USA Onshore Properties Inc.

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Introduction

For nearly half a decade, Petitioners' counsel, representing a miniscule portion of the class, has made various, often procedurally improper, attempts to thwart a class settlement that resolves a natural-gas royalty dispute. The latest attempt is this Petition, which—through mischaracterizations of the record and a misreading of the settlement's plain language—attempts to convert a garden-variety class settlement into an Article III and Rule 23 crisis.

But contrary to Petitioners' claims, Pet. 32–33, the class is not riddled with uninjured members. Rather, the district court expressly found that the class does not include *any* uninjured members. Pet. App. 18a–23a. So, the question that Petitioners present—whether Article III permits a settlement class including uninjured class members—is not implicated. To the extent they quibble with the district court's finding of injury to the class members, that fact-bound question hardly justifies this Court's review.

Nor did the courts below rubberstamp the class settlement for "policy" reasons. *E.g.*, Pet. 13. Instead, in a 53-page opinion, the district court carefully considered every factor required by Rule 23(e)(2) and concluded that the class settlement is fair, adequate, and reasonable. Pet. App. 32a–60a. A unanimous panel of the Third Circuit affirmed that determination. Pet. App. 10a–15a.

In truth, this case does not present an opportunity for this Court to resolve the sweeping legal questions Petitioners present. Rather, the Petition is little more than a request for this Court to review the extensive factual findings underlying a

class settlement that both the district court and the Third Circuit easily concluded was fair.

This case has been pending for nearly a decade. The class settlement, which provides concrete financial relief and needed contractual clarity, was approved over two years ago. This Court should promptly deny the Petition, which presents no legal issues warranting review, and allow the class settlement to finally take effect.

Background

The Dispute

Thousands of Pennsylvania landowners have natural-gas leases with Equinor USA Onshore Properties ("Equinor").[1] Under those leases, Equinor takes title to a percentage of the landowners' natural gas at the wellhead. It then sells that natural gas to its corporate affiliate, Equinor Natural Gas ("ENG"), for a "neutral, third-party 'index price.'" Pet. App. 2a. "This is a price published in an industry-standard publication specific to natural gas." Pet. App. 2a n.2. ENG then transports and processes the natural gas, ultimately selling it to downstream third parties.[2]

Equinor calculates the leaseholders' royalties based on the index price paid to ENG (the "Index Price Methodology"). *See generally United States v. Brooks*,

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[1] Equinor was formerly known as Statoil USA Onshore Properties.

[2] Because securing and holding a legal interest in natural gas (done by Equinor) and transporting and selling such natural gas (done by ENG) are different activities, this corporate division of labor is common in the natural-gas industry. *See* Judith M. Matlock, *Payment of Royalties in Affiliate Transactions*, 48 Inst. On Oil & Gas L. & Tax'n § 16.09 (1997).

681 F.3d 678, 685 (5th Cir. 2012) (noting that index prices "are used to determine royalties"). Plaintiffs filed a putative class action in January 2016, claiming that they are instead entitled to a royalty based on ENG's downstream sales to third parties, both as a matter of contract and a common-law duty to market.

The Class Settlement

In March 2018, after extensive negotiations and following a 73-page motion-to-dismiss opinion[3] and a 24-page reconsideration opinion[4] that together narrowed the issues—but before either class certification or summary-judgment briefing—the parties executed a class-settlement agreement.

As the district court held, the class settlement includes "Royalty Owners in Northern Pennsylvania who have entered into oil and gas leases, regardless of the type of lease, that provide that the Royalty Owner is to be paid Royalties and to whom [Equinor] has (or had) an obligation to pay Royalties on production attributable to [Equinor's] working interest." Pet. App. 19a.

- Royalty Owner: "means any person who owns a Royalty interest in the Relevant Leases and is entitled to receive payment on such Royalty from [Equinor]." Pet. App. 11a.
- Royalty: "means the amount owed to a lessor by [Equinor] pursuant to an oil and gas lease (including any fractional interest therein) or an

[3] Order, *Rescigno v. Statoil USA Onshore Props., Inc.*, No. 3:16-cv-00085 (M.D. Pa. Mar. 22, 2017), ECF No. 72.

[4] Order, *Rescigno v. Statoil USA Onshore Props., Inc.*, No. 3:16-cv-00085 (M.D. Pa. June 12, 2017), ECF No. 85.

overriding royalty derived from the lessor's interest in such an oil and gas lease." Pet. App. 256a. As the district court found, "a royalty is only generated when gas is taken." Pet. App. 22a.

- Relevant Leases: "means each and every oil and gas lease in Northern Pennsylvania owned in whole or part by [Equinor] from which [Equinor] produces and sells Natural Gas and pays a Royalty to Royalty Owners." Pet. App. 255a.
- Petitioners do not dispute that Equinor uses the Index Price Methodology for all of the leases covered by the class settlement.

As the district court held:

> [R]ead together . . . the Class contains those currently holding a lease ("who have entered into oil and gas leases") entitling them to royalty payments owed by [Equinor] ("that provide the Royalty Owner is to be paid royalties") in the relevant area ("Northern Pennsylvania"), as well as their predecessors, successors, agents, and other representatives.

Pet. App. 21a.

The class settlement creates a $7 million settlement fund and partially resolves the ongoing interpretive dispute over the propriety of the Index Price Methodology. Pet. App. 32a.

The district court approves the class settlement, and the Third Circuit affirms.

In July 2020, the district court granted "preliminary" approval of the class settlement under

Federal Rule of Civil Procedure 23(e)(1)(B). Pet. App. 102a–116a. In doing so, it concluded that it would likely be able to certify the class and the class settlement. Pet. App. 111a–115a.

In October 2020, Petitioners filed 50 pages of objections to the class settlement. Pet. App. 33a. They also attended the April 2021 fairness hearing. *Id.*

In January 2023, in a 53-page opinion, the district court issued final approval for the class settlement under Federal Rule of Civil Procedure 23(e)(2). Pet. App. 29a. The district court certified the class, finding numerosity, commonality, typicality, adequacy of representation, predominance, and superiority. Pet. App. 33a–44a. It also found that the class settlement was fair, expressly applying Rule 23(e)(2)'s factors, along with others required by Third Circuit precedent. Pet. App. 59a; *see* Pet. App. 48a–62a. The district court also carefully addressed—and rejected—Petitioners' numerous objections. Pet App. 63a–72a.

Ultimately, the district court concluded that the settlement was fair, reasonable, and adequate, especially considering that: the case involved a complicated issue that would likely require numerous experts, only 2.5% of the class had opted out or objected, Equinor had an affirmative defense that could potentially zero out any damages, "the vast majority of the class signed arbitration agreements" that would preclude them from proceeding as a class absent a settlement, and the settlement was structured to adequately account for the underlying strength of different lease forms. Pet. App. 48a–55a.

Although the district court briefly referred to a presumption of fairness in its earlier *preliminary*

approval decision, Pet. App. 110a–111a, throughout the *final* approval decision, the district court made no mention of any presumption of fairness, *see* Pet. App. 32a–60a.[5] In other words, although Petitioners claim a "presumption rippled through the approval process," Pet. 19, the district court's ultimate approval decision did not rely on a presumption at all.

Shortly thereafter, Petitioners sought reconsideration, arguing for the first time that this Court's decision in *TransUnion v. Ramirez*, 594 U.S. 413 (2021), precluded class settlement because some class members might be uninjured. Pet. App. 16a–17a. [6] The district court rejected this argument, concluding that, under the plain language of the class settlement, the class did not include any uninjured persons. Pet. App. 18a–21a, 24a. Rather, the class was limited to current leaseholders who were or are owed a royalty from Equinor for natural gas taken from their property. Pet. App. 19a–21a. The district court found that, in arguing to the contrary, Petitioners had taken a few words out of context "to craft some more grandiose argument about potential harm." Pet. App. 19a; *see id.* ("As commonly arises when one reads one paragraph of an agreement without reading it in context of the full agreement, issues can arise."). Moreover, Petitioners' argument, which supposed

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[5] In its preliminary approval decision, the district court also made clear that "preliminary approval, however, is just that, preliminary. It is not a finding that definitively determines the elements of fairness, adequacy, and reasonableness needed for final approval of class action settlements . . . ." Pet. App. 111a.

[6] Even though Petitioners knew of *TransUnion* since December 2020, and this Court decided *TransUnion* in June 2021, Petitioners waited until *after* class approval in January 2023 to raise the issue. Pet. App. 17a–18a n.1.

that a royalty could be owed without natural gas being produced, "lack[ed] an understanding grounded in the reality of the process." Pet. App. 22a.

Petitioners appealed to the Third Circuit, which unanimously affirmed the district court in an unpublished opinion. Pet. App. 1a–15a. Importantly, the Third Circuit affirmed the district court's conclusion that the class did not include any uninjured members. Pet. App. 8a. It further affirmed the district court's determination that the settlement was fair, adequate, and reasonable. Pet. App. 12a–15a.

Petitioners then sought *en banc* review, which was denied without dissent. Pet. App. 205a–206a.

Petitioners' counsel has repeatedly tried to thwart the class settlement.

As the Third Circuit explained, "[Petitioners'] counsel has repeatedly tried to thwart the settlement." Pet. App. 4a. These—often procedurally improper—efforts have included: (1) an attempt "to convert a run-of-the-mill consolidation motion into a substantive attack on a potential class settlement," *Marbaker v. Statoil USA Onshore Props., Inc.*, No. 3:17-cv-01528, 2018 WL 2981341, at *3, n.4 (M.D. Pa. June 14, 2018), *aff'd* 801 F. App'x 56 (3d Cir. 2020), (2) an attempt to intervene that came three years too late, Pet. App. 84a, 90a, (3) discovery requests that the district court found so "sweeping" and "unserious" that they "verge[d] on farcical," Pet. App. 80a, and (4) a notice of supplemental authority that was struck for being nine times the permitted word limit and "composed almost entirely of argument" in violation of the district court's rules, Order 2, *Rescigno v. Statoil USA Onshore Props. Inc.*, No. 3:16-cv-00085, (M.D. Pa. 2016), ECF No. 220.

These efforts have delayed resolution of this case, which has now been pending for nearly a decade. They have delayed relief for the class, which has yet to see any of the $7 million settlement fund. And they have delayed contractual clarity for the parties going forward.

Petitioners now ask this Court to grant certiorari to review the lower courts' fact-bound determinations that the class settlement was fair. But this Court does not usually grant such petitions. *See* Supreme Court Rule 10. So, Petitioners instead try to position this case as an opportunity for the Court to address sweeping Article III and Rule 23(e) issues. In doing so, the Petition repeatedly misstates the record. To name but a few of the most glaring examples:

- Petitioners claim that the district court "did not address the standard for approval in amended Rule 23." Pet. 11–12. In fact, the district court expressly considered Rule 23(e)(2)'s factors. Pet. App. 59a–60a.
- Petitioners claim that the district court failed to define a class. Pet. 25–26. In fact, the district court examined the settlement's class definition in its preliminary-approval order, Pet. App. 107a–108a, its final-approval order, Pet. App. 31a–32a, and its order denying reconsideration, Pet. App. 18a–21a.
- Petitioners claim that the Third Circuit never applied a legal standard in affirming the district court's fairness determination. Pet. 13. In fact, it applied its prior precedent and the factors under *Girsh v. Jepson*, 521 F.2d 153 (3d Cir. 1975). Pet. App. 13a–14a.
- Petitioners insist that the courts below rubberstamped the class settlement solely for

"policy" reasons. Pet. 2, 13, 16, 17, 18, 19, 20, 23, 26. In fact, in a 53-page opinion, the district court carefully considered the record and Petitioners' objections and concluded that, under Rule 23(e)(2), the settlement was fair. Pet. App. 29a, 59a–60a.

Reasons for Denying the Writ

I. This case does not present a vehicle to answer whether class settlements can include uninjured class members.

Petitioners argue that this case will give the Court an opportunity to answer whether Article III permits a court to approve a class settlement that includes uninjured class members. Pet i. But this case does not present that question.

The class does not contain any uninjured persons.

Plaintiffs allege that Equinor is using the wrong royalty calculation and that this has resulted in royalty underpayments. Pet. App. 30a. As the district court found, the class is limited to current leaseholders (and their predecessors and successors), for whom Equinor has already taken gas from their properties, and for whom Equinor either owed or owes a royalty payment. Pet. App. 21a–22a. Thus, each class member is alleged to have suffered a concrete monetary injury (*i.e.*, royalty underpayment)—one of "[t]he most obvious" forms of Article III injury. *TransUnion*, 594 U.S. at 425. Further, each class member has a live dispute over the terms of their lease. This, too, is enough to satisfy Article III. *See MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118 (2007). Thus, "there is no dispute that the alleged injuries—breach of contract, breach of common-law duty, and underpayments—suffice to establish Article III standing." Pet. App. 9a.

Taking two words ("entered into") out of context, Petitioners attempt to manufacture an Article III issue. *See* Pet. App. 19a (criticizing Petitioners for taking words out of context "to craft some more grandiose argument about potential harm"); *see also Yates v. United States*, 574 U.S. 528, 537 (2015) (emphasizing the importance of reading words in their full context). Specifically, Petitioners insist that the class includes anyone who ever "entered into" a lease with Equinor, regardless of whether she "currently has a lease, has property where a well is producing gas or ever has produced gas, or has ever actually been paid or is owed royalties for gas that has been produced." Pet. 32. That is wrong at every turn. As the district court found, the class definition is limited to (1) "those currently holding a lease," Pet. App. 21a, (2) who are (or were) "already owed" a royalty, *id.*, (3) meaning that natural gas has already been removed from the landowners' property, Pet. App. 21a–22a. The Third Circuit affirmed these findings. Pet. App. 8a. Simply, as the district court found, Petitioners' reading ignores the full text of the settlement agreement, Pet. App. 19a, and "lack[s] an understanding grounded in the reality of the process," Pet. App. 22a.

Moreover, Petitioners' concern is entirely "hypothetical." Pet. App. 21a. As both the district court and the Third Circuit found, Petitioners "fail to identify a single member of the settlement class that has yet to be injured." Pet. 8a; *see* Pet. App. 22a ("[T]he objectors do not identify a single party in the settlement that would fall into this realm of a yet to be injured plaintiff."). Petitioners claim that this amounted to putting the "burden" on them "to disprove standing." Pet. 34. But Petitioners miss the

point. In the face of a class definition plainly limited to injured persons, nearly a decade of litigation, and ~13,000 class members, Petitioners' inability to identify a single uninjured class member demonstrates the unseriousness of their argument. *Cf.* Pet. 3, *Lab'y Corp. of Am. Holdings v. Davis*, No. 24-304 (identifying the sort of class members who would be uninjured).

In any event, this case is a poor vehicle for addressing the proposed Article III question.

After affirming the district court's finding that the class definition includes only injured class members, Pet. App. 8a, the Third Circuit then held that, under its precedent, "in the context of a class settlement, the standing inquiry focuses solely on the class representative(s)." Pet. App. 9a. (internal quotations omitted). Petitioners argue that this focus on the named plaintiffs splits with various precedent. Pet. 33.

Both the surrounding context and the fact that this holding begins with the word "moreover" confirms that this was an *alternative* holding. *See Johnson v. LaValley*, No. 11-cv-3863, 2014 WL 285089, at *20 (S.D.N.Y. Jan. 24, 2014) ("[T]he word 'moreover,' reflect[s] that the following discussion was, at most, an alternative holding."). So, even if this Court were inclined to address whether the class-settlement inquiry extends beyond the named plaintiffs, this would be a poor vehicle in which to do so. *See Gonzalez v. Trevino*, 602 U.S. 653, 675 (2024) (Kavanaugh, J., concurring) ("At this point, the Court's grant of certiorari looks ill-advised given that the question presented about the *Nieves* exception bears no

relation to the issue on which Gonzalez's suit actually turns.").

For the same reason, this Court should not hold this Petition pending resolution of *Laboratory Corp. of America Holdings v. Davis*, No. 24-304. Last month, the Court granted certiorari in *Laboratory Corp.* to resolve: "[w]hether a federal court may certify a class action pursuant to Federal Rule of Civil Procedure 23(b)(3) when some members of the proposed class lack any Article III injury." Order, No. 24-304 (Jan. 24, 2025). But, because both the district court and the Third Circuit held that every class member was injured, no matter the outcome in *Laboratory Corp.*, the outcome in *this* case will remain the same. Also, considering that this case has been pending since 2016 and the class settlement was approved in 2023, any further delays would be particularly unfair.

Separately, this issue has not sufficiently percolated in the Courts of Appeals. The supposed "split" that Petitioners identify is between the Third Circuit's unpublished non-precedential decision here and the Ninth Circuit's unanimous unpublished decision in *Harvey v. Morgan Stanley*, No. 19-16955, 2022 WL 3359174 (9th Cir. Aug. 15, 2022). Pet. 33. Notably, the Third Circuit's analysis of the issue here was limited to a single sentence and did not discuss or analyze *Harvey*. Unacknowledged tension between two unpublished decisions is a far cry from the sort of well-developed circuit split that warrants this Court's review.

II. The courts below rigorously analyzed the evidence under Rule 23(e)(2)'s factors and concluded that the settlement was fair.

Petitioners also ask this Court to answer whether "Federal Rule of Civil Procedure 23 as amended in 2018 permit[s] courts to apply a policy favoring settlement in place of a rigorous evidentiary analysis before certifying a settlement class and approving a class settlement." Pet. i. But this case does not present that question either.

This case *did* involve a "rigorous evidentiary analysis." As discussed, in a 53-page opinion, the district court carefully considered every factor under Rule 23(e)(2)—and others—in determining that the settlement was fair. Pet. App. 59a; *see* Pet. App. 32a–60a. In arguing otherwise, Petitioners claim that an initial statement from the Third Circuit noting "a strong presumption in favor of voluntary settlement agreements," Pet. App. 12a, essentially amounted to a policy rubberstamp. But Petitioners make too much of too little. The proposition that amicable resolutions are more desirable than protracted adversarial litigation is unremarkable. *E.g.*, *McDermott, Inc. v. AmClyde*, 511 U.S. 202, 215 (1994) ("[P]ublic policy wisely encourages settlements . . . ."); *see French v. Shoemaker*, 81 U.S. 314, 315 (1871) ("Equity favors amicable compromise of controversies . . . ."). And there is no indication that any initial presumption had a material impact on the Third Circuit's decision, which "[n]ext" went on to "evaluate whether the settlement was fair and adequate" and upheld the district court's "thorough[]" consideration of the factors. Pet. App. 13a–14a.

Petitioners' claim that this case presents a circuit split warranting review fares no better. As the Petition notes, in *Moses v. New York Times Co.*, the Second Circuit reversed the district court's application of a presumption of fairness to a class settlement *solely* because it was negotiated at arms' length. 79 F.4th 235, 243 (2d Cir. 2023). The Ninth Circuit did the same in *Roes, 1–2 v. SFBSC Mgmt. LLC*, 944 F.3d 1035, 1049 (9th Cir. 2019); *see Briseño v. Henderson*, 998 F.3d 1014, 1030 (9th Cir. 2021). But Third Circuit precedent does not apply a presumption based solely on arms'-length negotiation. Rather, it applies a presumption when the settlement was (1) negotiated at arms' length, (2) there had been sufficient discovery, (3) the settlement proponents were experienced in similar litigation, and (4) only a small fraction of the class objected. Pet. App. 13a. In this way, any tension between the Third Circuit and the Second and Ninth Circuits is indirect at best.

Further, the district court did not rely on any presumption in finally approving the settlement. Indeed, the words "presume" or "presumption" never even appear in the opinion. Thus, this case presents a poor vehicle to address whether Rule 23(e) permits courts to apply any sort of presumption in approving class settlements. Even if this case were ultimately sent back to the district court for reconsideration, it would make no difference, because the district court did not rely on any presumption in its final approval analysis to begin with and therefore would reach the same result. That would also be a particularly unjust result, given that Petitioners already have dragged this matter out unnecessarily for years.

Conclusion

This case does not present any legal issue warranting this Court's review, and it serves as a poor vehicle to consider the questions presented. The Court should deny the petition for a writ of certiorari.

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