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14 *Lead Trial Counsel*  
(additional counsel listed at signature)

15 **UNITED STATES DISTRICT COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**

18 KEITH ANDREWS, an individual, et  
al.,

19 Plaintiffs,

20 v.

21 PLAINS ALL AMERICAN  
22 PIPELINE, L.P., a Delaware limited  
23 partnership, et al.,

24 Defendants.

Case No. 2:15-cv-04113-PSG-JEMx

**PLAINTIFFS' SUPPLEMENTAL  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR FINAL APPROVAL  
OF CLASS ACTION SETTLEMENT**

Date: September 20, 2022  
Time: 1:30 p.m.  
Judge: Hon. Philip S. Gutierrez  
Courtroom: 6A

1 Plaintiffs respectfully submit this supplemental memorandum in support of  
2 their motion for final approval of the proposed Settlement. Dkt. 952. As set out in  
3 Plaintiffs’ initial memorandum, the combined \$230 million, non-reversionary  
4 Settlement before the Court is fair, adequate, and reasonable, and should be finally  
5 approved pursuant to Fed. R. Civ. P. 23(e). The Settlement was reached on the eve  
6 of trial and only after an extraordinary degree of discovery and motion practice, and  
7 with the aid of experienced mediators who oversaw several mediation sessions over  
8 the course of many years. The proposed Settlement represents a substantial and  
9 impressive percentage of the Classes’ maximum recoverable damages, and it heads  
10 off the unpredictable risks of trial and appeals – risks that are amplified in this case  
11 given its complexity, novelty, and scale.

12 Class members’ response to the proposed Settlement indicates that they agree  
13 with this assessment. After implementation of a rigorous Class Notice plan that  
14 included individual mailed notice to thousands of Fisher and Property Class  
15 members, supplemented by extensive published notice, not a single Class member  
16 has objected to the proposed Settlement.<sup>1</sup> The absence of objections, after a robust  
17 notice program, further supports final approval here.<sup>2</sup> “It is established that the  
18 absence of a large number of objections to a proposed class action settlement raises  
19 a strong presumption that the terms of a proposed class settlement action are

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20  
21 <sup>1</sup> A single Property Class member objected to the distribution plan because her  
22 property was included in the “Moderate” rather than “Heavy” oiling category.  
23 However, she does not challenge the Settlement itself or the Property Plan of  
24 Distribution generally. The issue she raises relates only to the classification of her  
25 individual property, and is based on the mistaken assumption that properties  
26 categorized as having sustained “Moderate” rather than “Heavy” oiling are treated  
27 differently in their allocations. They are not. These two oiling categories receive the  
28 same Fixed Share. This misunderstanding is more fully addressed in Plaintiffs’  
Supplemental Memorandum in Support of the Plans of Distribution, Section II.A.

<sup>2</sup> See Dkt. 959, Declaration of Jennifer Keough (“Keough Decl.”) ¶¶ 11-14. The  
Supplemental Declaration of Jennifer Keough (“Keough Supp. Decl.”) describes  
the Administrator’s efforts since July 29, 2022, including following-up on  
undeliverable direct mail notices, fielding inquiries through the website and toll-  
free number, and establishing the online claims submission portal.

1 favorable to the class members.” *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*,  
2 221 F.R.D. 523, 529 (C.D. Cal. 2004); *see also Churchill Vill., LLC v. Gen. Elec.*,  
3 361 F.3d 566, 577 (9th Cir. 2004) (affirming district court’s approval of settlement  
4 where 45 of 90,000 class members objected to the settlement and 500 class  
5 members opted out); *Smith v. Experian Info. Sols., Inc.*, No. SACV 17-00629-CJC  
6 (AFMx), 2020 WL 6689209, at \*4 (C.D. Cal. Nov. 9, 2020). The absence of  
7 objections is especially meaningful given that many Class members have  
8 substantial recoveries at stake and therefore have more incentive to make any  
9 objections known. *See* Dkts. 951-1 ¶¶ 71, 75, 80; 951-2 ¶ 62; *see also* 4 NEWBERG  
10 AND RUBENSTEIN ON CLASS ACTIONS § 13:58 (6th ed.).<sup>3</sup>

11 For the reasons stated above and in their initial memorandum in support of  
12 final settlement approval, Plaintiffs respectfully request that the Court grant their  
13 motion for final approval of the proposed Settlement as fair, adequate, and  
14 reasonable.

15 Dated: September 2, 2022

Respectfully submitted,

16 By:                   /s/ Robert J. Nelson                  

17  
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28 <sup>3</sup> Thirty-four Class members opted out of the case after the Classes were initially certified, prior to the Settlement. Plaintiffs have attached an amended proposed order that includes this list of opt-outs and references the lack of objections to the Settlement.

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KEITH ANDREWS, an individual,  
TIFFANI ANDREWS, an individual.  
BACIU FAMILY LLC, a California  
limited liability company, ROBERT  
BOYDSTON, an individual, MORGAN  
CASTAGNOLA, an individual, THE  
EAGLE FLEET, LLC, a California  
limited liability company, ZACHARY  
FRAZIER, an individual, MIKE  
GANDALL, an individual,  
ALEXANDRA B. GEREMIA, as  
Trustee for the Alexandra Geremia  
Family Trust dated 8/5/1998, JIM  
GUELKER, an individual, JACQUES  
HABRA, an individual, MARK  
KIRKHART, an individual, MARY  
KIRKHART, an individual, RICHARD  
LILYGREN, an individual, HWA  
HONG MUH, an individual, OCEAN  
ANGEL IV, LLC, a California limited  
liability company, PACIFIC RIM  
FISHERIES, INC, a California  
corporation, SARAH RATHBONE, an  
individual, COMMUNITY SEAFOOD  
LLC, a California limited liability  
company, SANTA BARBARA UNI,  
INC., a California corporation,  
SOUTHERN CAL SEAFOOD, INC., a  
California corporation, TRACTIDE  
MARINE CORP., a California  
corporation, WEI INTERNATIONAL  
TRADING INC., a California  
corporation and STEPHEN WILSON,  
an individual, individually and on  
behalf of others similarly situated,

Case No. 2:15-cv-04113-PSG-JEM

[Consolidated with Case Nos. 2:15-cv-04573-PSG (JEMx), 2:15-cv-04759-PSG (JEMx), 2:15-cv-04989-PSG (JEMx), 2:15-cv-05118-PSG (JEMx), 2:15-cv-07051-PSG (JEMx)]

**[AMENDED PROPOSED] ORDER  
GRANTING FINAL APPROVAL  
OF PROPOSED SETTLEMENT**

Judge: Hon. Philip S. Gutierrez  
Courtroom: 6A

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Plaintiffs,

vs.

PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, and PLAINS PIPELINE, L.P., a Texas limited partnership, and JOHN DOES 1 through 10,

Defendants.

1 WHEREAS, plaintiffs Keith Andrews, Tiffani Andrews, Morgan Castagnola,  
2 Mike Gandall, Hwa Hong Muh, Ocean Angel IV LLC, Pacific Rim Fisheries, Inc.,  
3 Sarah Rathbone, Community Seafood LLC, Santa Barbara Uni, Inc., Southern Cal  
4 Seafood, Inc., Wei International Trading, Inc., individually and in their  
5 representative capacities (“Fisher Class Representatives”), and Defendants Plains  
6 All American Pipeline, L.P. and Plains Pipeline, L.P. (collectively “Plains” or  
7 “Defendants”) have reached a proposed settlement of the Fisher Class claims, which  
8 is embodied in the Settlement Agreement filed with the Court;

9 WHEREAS, plaintiffs Baci Family LLC, Alexandra B. Geremia, Jacques  
10 Habra, Mark Kirkhart, and Mary Kirkhart (“Property Class Representatives”), and  
11 Plains have reached a proposed settlement of the Property Class claims, which is  
12 embodied in the Settlement Agreement filed with the Court;

13 WHEREAS, on May 25, 2022, an Order Granting Preliminary Approval of  
14 Proposed Settlement (“Preliminary Approval Order”) was entered by this Court,  
15 preliminarily approving the proposed Settlement of this Action pursuant to the terms  
16 of the Settlement Agreement and directing that Notice be given to the members of  
17 the Settlement Classes;

18 WHEREAS, pursuant to the Settlement Agreement, Class Members have  
19 been provided with Notice informing them of the terms of the proposed Settlement  
20 and of a Final Approval Hearing to, *inter alia*: (a) determine whether the proposed  
21 Settlement should be finally approved as fair, reasonable, and adequate so that the  
22 Final Approval Order and Judgment should be entered; (b) consider any timely  
23 objections to this Settlement and the Parties’ responses to such objections; (c) rule  
24 on any application for attorneys’ fees and expenses; (d) rule on any application for  
25 incentive awards; and (e) determine whether the Plans of Distribution that will be  
26 submitted by Class Counsel should be approved;

27 WHEREAS, a Final Approval Hearing was held on September 20, 2022.  
28 Prior to the Final Approval Hearing, proof of completion of Notice was filed with

1 the Court, along with declarations of compliance as prescribed in the Preliminary  
2 Approval Order. Class Members were adequately notified of their right to appear at  
3 the hearing in support of or in opposition to the proposed Settlement, any  
4 application for attorneys' fees and expenses, any application for incentive awards,  
5 and/or the Plans of Distribution submitted by Class Counsel;

6 WHEREAS, no Class Members have filed objections challenging the fairness  
7 of the Settlement, indicating a positive reaction from the Classes and further  
8 supporting the reasonableness of the Settlement;

9 WHEREAS, the Fisher Class Representatives and the Property Class  
10 Representatives have applied to the Court for final approval of the proposed  
11 Settlement of the Action, the terms and conditions of which are set forth in the  
12 Settlement Agreement;

13 NOW, THEREFORE, the Court having read and considered the Settlement  
14 Agreement and accompanying exhibits and the Motion For Final Settlement  
15 Approval, having heard any objectors or their counsel appearing at the Final  
16 Approval Hearing, having reviewed all of the submissions presented with respect to  
17 the proposed Settlement, and having determined that the Settlement is fair, adequate,  
18 and reasonable and in the best interests of the Class Members, it is hereby  
19 ORDERED, ADJUDGED and DECREED THAT:

20 1. The capitalized terms used in this Order Granting Final Approval of  
21 Proposed Settlement have the same meaning as defined in the Settlement  
22 Agreement.

23 2. The Court has jurisdiction over the subject matter of this Action and  
24 over all claims raised therein and all Parties thereto, including the Classes.

25 3. The Court finds that the Notice set forth in Article V of the Settlement  
26 Agreement, detailed in the Notice Plan attached to the Declaration of Jennifer  
27 Keough of JND Legal Administration, and effectuated pursuant to the Preliminary  
28 Approval Order: (a) constitutes the best notice practicable under the circumstances



1 of this Action; (b) constitutes due and sufficient notice to the Classes of the terms of  
2 the Settlement Agreement and the Final Approval Hearing; and (c) fully complied  
3 with the requirements of the Federal Rules of Civil Procedure, the United States  
4 Constitution, and any other applicable law, including the Class Action Fairness Act  
5 of 2005, 28 U.S.C. § 1715.

6 4. Based on the papers filed with the Court and the presentations made to  
7 the Court at the hearing, the Court now gives final approval to the Settlement and  
8 finds that the Settlement is fair, reasonable, and adequate, and in the best interests of  
9 the Settlement Class Members. The Court has specifically considered the factors  
10 relevant to class settlement approval. *See, e.g.*, Fed. R. Civ. P. 23(e); *Churchill Vill.,*  
11 *L.L.C. v. Gen. Elec.*, 361 F.3d 566 (9th Cir. 2004); *In re Bluetooth Headset Products*  
12 *Liability Litig.*, 654 F.3d 935 (9th Cir. 2011).

13 a. Among the factors supporting the Court’s determination are: the  
14 significant relief provided to Class Members; the risks of ongoing  
15 litigation, trial, and appeal; the risk of maintaining class action status  
16 through trial and appeal; the extensive discovery to date; and the  
17 positive reaction of Class Members.

18 b. Class certification remains appropriate for the reasons set out in  
19 the Court’s prior orders certifying the Fisher Class and Property  
20 Classes. Further, the Fisher Class Representatives and the Property  
21 Class Representatives, and Class Counsel have adequately represented  
22 the classes.

23 c. The Settlement was negotiated at arm’s length and was free of  
24 collusion. It was negotiated with experienced, adversarial counsel after  
25 extensive discovery, and with the aid of neutral, qualified mediators.  
26 Further, the attorneys’ fees and costs award was the subject of a  
27 separate application to the Court.  
28

1           5.    The Settlement Agreement and every term and provision thereof are  
2 deemed incorporated in this Order and have the full force of an order of this Court.

3           6.    Upon the Effective Date, all Class Members have, by operation of this  
4 Order, fully, finally and forever released, relinquished, and discharged the Released  
5 Parties pursuant to Article VII of the Settlement Agreement.<sup>1</sup>

6           7.    Upon the Effective Date, Class Members, and their successors, assigns,  
7 parents, subsidiaries, affiliates or agents of any of them, are permanently barred and  
8 enjoined from commencing or continuing any action or proceeding in any court or  
9 tribunal asserting any claims released under the Settlement Agreement, including  
10 any claims for criminal restitution in *People v. Plains All Am. Pipeline, L.P.*, No.  
11 1495091 (Cal. Superior Ct.) and writ relief sought in *Victim Restitution Claimants v.*  
12 *Superior Court of the County of Santa Barbara*, No. B317229 (Cal. Ct. of Appeal),  
13 and from accepting payment of any Restitution Award in *People v. Plains All Am.*  
14 *Pipeline, L.P.*, No. 1495091 (Cal. Superior Ct.).

15           8.    This Final Approval Order, the Settlement Agreement, the Settlement  
16 that it reflects, and any and all acts, statements, documents or proceedings relating to  
17 the Settlement are not, and must not be construed as, or used as, an admission by or  
18 against Defendants of any fault, wrongdoing, or liability on their part, or of the  
19 validity of any claim or of the existence or amount of damages.

20           9.    The above-captioned Action is dismissed in its entirety with prejudice.  
21 Except as otherwise provided in orders separately entered by this Court on any  
22 application for attorneys' fees and expenses, any application for incentive awards,  
23 and the Plans of Distribution submitted by Class Counsel, the parties will bear their  
24 own expenses and attorneys' fees.

25

26 \_\_\_\_\_  
27 <sup>1</sup> A list of those who previously opted out of each of the Classes at the time they  
28 were certified, and therefore are not bound by the terms of the Settlement, is  
attached to this Order.

1           10. Without affecting the finality of this Order and the accompanying  
2 Judgment, the Court reserves jurisdiction over the implementation of the Settlement,  
3 including enforcement and administration of the Settlement Agreement, including  
4 any releases in connection therewith, and any other matters related or ancillary to  
5 the foregoing.

6

7           IT IS SO ORDERED.

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9 DATED: \_\_\_\_\_

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Hon. Philip S. Gutierrez

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**LIST OF OPT-OUTS**

**Property Opt-outs**

Anthony Sogliuzzo  
Donald W. and Carol L. Swenson  
Janet Thornton  
Francis F. and Edna L. Chen  
Patsy R. Lockwood  
Erlaine Seeger  
Adeline M. Godcombe  
Boris LLC  
David Meline  
Diane Ward  
Donna Reckseen  
Edward & Donna Martyn  
Fred Sanford  
John Jones  
John Torpey  
Linda Ann and John Henry Seiter  
Margaret Toth  
Phyllis Walker  
Richard Gunther  
Robin Arnold  
Sarah Hinton  
Steven C. Comstock  
Thacher Family Beach House Trust  
Waldemar S. Nelson Co. Inc.  
Joan Riley

**Fisher Opt-outs**

Anthony Luna  
Jason Robinson  
Kenneth Millington  
Shane Robinson  
John Burris  
Adam White  
Matthew Arf  
Jason Deaton  
Henry Lara