

1 Wylie A. Aitken, State Bar No. 37770
wylie@aitkenlaw.com
2 **AITKEN ♦ AITKEN ♦ COHN**
3 3 MacArthur Place, Suite 800
Santa Ana, CA 92808
Telephone: (714) 434-1424
4 Facsimile: (714) 434-3600

5 Lexi J. Hazam, State Bar No. 224457
lhazam@lchb.com
6 **LIEFF CABRASER HEIMANN**
7 **& BERNSTEIN, LLP**
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
8 Telephone: (415) 956-1000
Facsimile: (415) 956-100
9

10 Stephen G. Larson, State Bar No. 145225
slarson@larsonllp.com
11 **LARSON, LLP**
600 Anton Blvd., Suite 1270
Costa Mesa, CA 92626
12 Telephone: (949) 516-7250
Facsimile: (949) 516-7251
13

14 *Interim Settlement Class Counsel*

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **SOUTHERN DIVISION**

19 PETER MOSES GUTIERREZ, JR., *et al.*,

20 Plaintiffs,

21 v.

22 AMPLIFY ENERGY CORP., *et al.*,

23 Defendants.

Case No. 8:21-CV-01628-DOC(JDEx)

24 **DECLARATION OF WYLIE A.**
25 **AITKEN IN SUPPORT OF**
26 **MOTIONS FOR FINAL**
27 **SETTLEMENT APPROVAL, PLANS**
28 **OF DISTRIBUTION, AND**
ATTORNEYS' FEES AND COSTS

Date: April 24, 2023
Time: 8:30 a.m.
Judge: David O. Carter
Courtroom: 10A

1 I, Wylie A. Aitken, declare:

2 1. I am a founding partner of the law firm of Aitken Aitken Cohn
3 (“Aitken”), and serve as Court-appointed Interim Settlement Class Counsel (“Class
4 Counsel”) for the Plaintiffs in this action. I have personal knowledge of the facts set
5 forth in this Declaration based on my day-to-day participation in the prosecution
6 and settlement of this case, and, if called as a witness, could and would testify
7 competently to them.

8 2. I submit this declaration in support of Plaintiffs’ motions for final
9 approval of the proposed Settlement and for approval of the Plans of Distribution,
10 as well as Interim Settlement Class Counsel’s motion for an award of attorneys’
11 fees, expenses, and class representative service awards.

12 **A. Settlement Approval**

13 3. Since being appointed Interim Co-Lead Class Counsel (Dkt. 38), my
14 co-counsel and I have personally supervised and directed every aspect of the
15 prosecution and resolution of this litigation on behalf of the Plaintiffs and the
16 Settlement Classes.

17 4. In my judgment, Class Counsel have the skill and experience to judge
18 the strengths and weaknesses of the case based on the significant discovery
19 conducted to date, and as a result of a complex mediation session that involved
20 detailed mediation statements and supporting exhibits addressing liability and
21 damages, including expert reports, rebuttal declarations, and rebuttal expert reports.
22 As the mediator reported, “[t]he work that went into the mediation statements and
23 competing presentations and arguments was substantial.” Dkt. 476-2 (Declaration
24 of Layn Phillips in Support of Plaintiffs’ Motion for Preliminary Approval) ¶ 5.

25 5. It is my judgment and the judgment of all Class Counsel that the
26 proposed Settlement is an excellent result, readily meets the Rule 23 “fair,
27 reasonable, and adequate” standard, and is in the best interests of the Classes.
28 Further, the Plans of Distribution represent a fair and equitable allocation of the

1 settlement proceeds grounded in the classwide damages models Plaintiffs' experts
2 developed over the course of many years, and that Class Counsel were prepared to
3 present at trial.

4 **B. Lodestar and Expenses**

5 6. My firm and our fellow Class Counsel litigated this case on a purely
6 contingent basis, foregoing other work in order to handle this complex matter with
7 no guarantee of recovery. While Class Counsel request attorneys' fees as a
8 percentage of each common fund, for the Court's reference, I report Aitken's and
9 associated Class Counsel's summary time, lodestar, and costs incurred in this
10 litigation and for the benefit of the settling Classes.

11 7. Plaintiffs seek fees and expenses at this time only for work that was
12 performed in furtherance of litigation against Amplify and settlement thereof. Class
13 Counsel seek fees and expenses for work that they performed or authorized to be
14 performed that pre-dates the Settlement with Amplify, in addition to work after that
15 date that specifically relates to the Amplify settlement, such as briefing regarding
16 the settlement. Accordingly, the lion's share of Plaintiffs' time and expenses date
17 from December 20, 2021 (the date the Court appointed Interim Co-Lead Counsel,
18 see Dkt. 38) through October 17, 2022, the date the Parties settled. See Dkt. 476.

19 8. All Aitken time-keepers are required to contemporaneously record
20 their time in 6-minute increments. Attorneys working under my supervision audited
21 my firm's time records to confirm their accuracy. This included removing any time
22 post-dating and not relating the settlement with Amplify; hours from timekeepers
23 with fewer than 10 hours in the case, to the extent practicable; and certain hours as
24 a matter of billing judgment.

25 9. Aitken allocated work to maximize efficiency. To the extent
26 practicable, senior attorneys did not perform work that could be accomplished by
27 more junior attorneys, and attorneys did not perform work that could be completed
28 by paralegals.

1 10. The hourly rates charged by Aitken fall within the range of market
2 rates charged by attorneys of equivalent experience, skill, and expertise. Aitken’s
3 rates reflect the market rates in the markets within which Aitken’s primary offices
4 are located and from which this matter has been handled—namely, Santa Ana and
5 Riverside. Except in rare circumstances, Aitken does not bill at different rates for
6 different clients or different types of cases.

7 11. Federal courts have approved rates comparable to the rates requested
8 here. *See, e.g., Hefler v. Wells Fargo & Co.*, No. 16-CV-05479-JST, 2018 WL
9 6619983, at *14 (N.D. Cal. Dec. 18, 2018) (rates from \$650 to \$1,250 for partners
10 or senior counsel, \$400 to \$650 for associates); *In re Volkswagen “Clean Diesel”*
11 *Mktg., Sales Practices, & Prod. Liab. Litig.*, No. 2672 CRB (JSC), 2017 WL
12 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (billing rates ranging from \$275 to \$1600
13 for partners, \$150 to \$790 for associates, and \$80 to \$490 for paralegals found to be
14 reasonable).

15 12. Attached as Exhibit 1 is a true and correct summary lodestar chart
16 which lists: (1) the name of each Aitken timekeeper who recorded time in this case;
17 (2) their title or position; (3) the total number of hours they worked on the case; (4)
18 their current hourly rate; and (5) their lodestar.

19 13. Attorneys with Cotchett, Pitre & McCarthy, LLP (“Cotchett”); Casey
20 Gerry Schenk Francavilla Blatt & Penfield LLP (“CaseyGerry”); and Aqua Terra
21 Aeris Law Group (“ATA”) also performed work at my direction on behalf of the
22 Classes. Attached as Exhibits 2-4 are, for Cotchett, CaseyGerry, and ATA,
23 respectively, (1) the name of each timekeeper who recorded time in this case; (2)
24 their title or position; (3) the total number of hours they worked on the case; (4)
25 their current hourly rate; and (5) their lodestar.

26 14. As reflected in Exhibit 1, the total number of hours expended on this
27 matter by Aitken on behalf of the Classes through the date of settlement is 885.7.
28 The total lodestar for my firm for that period is \$915,462.50.

1 15. As reflected in Exhibits 2-4, the total number of hours expended on
2 this matter by the firms performing work at the direction of Aitken (Cotchett,
3 CaseyGerry, and ATA) on behalf of the Classes through the date of settlement is
4 1,276.55. The total lodestar for those firms for that period is \$701,587.00.
5 Altogether, Aitken and the firms working at Aitken's direction expended 2,162.25
6 hours for \$1,617,049.50 in total lodestar on behalf of the Classes during that period.

7 16. Class Counsel maintained a Common Fund for expenses incurred
8 during the course of this litigation, which was managed by Lief Cabraser Heimann
9 & Bernstein LLP. The three Interim Co-Lead Counsel firms all made contributions
10 to the Common Fund at periodic intervals as costs were incurred. Lief Cabraser
11 maintained the books and records for the Common Fund and disbursed monies to
12 cover case expenses as needed.

13 17. Aitken separately spent \$938.35 in connection with the prosecution
14 and settlement of this case. The expenses are presented in summary form in Exhibit
15 5, which was generated from my firm's books and records. These expenses
16 primarily consist of filing fees and delivery costs. These expenses were reasonably
17 and necessarily incurred in Class Counsel's efforts to prosecute this case. The
18 expenses here are in line with expenses Aitken has incurred in other large, complex
19 class action lawsuits it has successfully prosecuted over the years, and are the type
20 typically billed by attorneys to clients.

21 18. The firms working at my direction spent approximately \$15,005.32 in
22 connection with the prosecution and settlement of this case. Those expenses are
23 presented in summary form in Exhibits 6-7.

24 19. These expenses were advanced by Aitken and the firms working at its
25 direction with no guarantee of recovery. As a result, Class Counsel had a strong
26 incentive to keep costs to a reasonable level and did so.

27
28

1 20. I expect each of these numbers will increase through final settlement
2 approval and settlement administration, meaning that any multiplier that Class
3 Counsel receive on their lodestar will continue to decrease over time.

4 I declare under penalty of perjury under the laws of the State of California
5 that the foregoing is true and correct.

6 Executed on January 25, 2023, in Anaheim, California.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

/s/ Wylie A. Aitken

EXHIBIT 1

AITKEN AITKEN COHN			
Time and Lodestar Summary			
PARTNER			
NAME	Hours	Rate	Total
Wylie A. Aitken	288.4	1250.00	\$360,500.00
Daren O. Aitken	202.9	975.00	\$197,827.50
Megan G. Demshki	356.6	975.00	\$347,685.00
TOTAL	847.9		\$906,012.50
PARALEGAL			
NAME	Hours	Rate	Total
Jennifer Smith	37.8	250.00	\$9,450.00
TOTAL	37.8		\$9,450.00
MATTER TOTALS	885.7		\$915,462.50

EXHIBIT 2

Gutierrez v. Amplify Energy Corp., No. 8:21-CV-01628-DOC(JDEx)
Cotchett, Pitre & McCarthy, LLP Time and Lodestar Summary

Timekeeper	Title	Hourly Rate	Hours Worked	Lodestar
Brown, Hannah	Associate	\$450.00/\$600.00	260.25	\$116,980.00
Hutchinson, Robert	Of Counsel	\$850.00	28.3	\$24,012.50
Praglin, Gary	Partner	\$750.00	54.4	\$40,800.00
Soto, Mallory	Paralegal	\$275.00	26.7	\$7,342.50
Weil, Kelly	Partner	\$675.00	76.1	\$51,367.50
Grand Total			445.75	\$240,502.50

EXHIBIT 3

Gutierrez v. Amplify Energy Corp., No. 8:21-CV-01628-DOC(JDEx)
CaseyGerry Time and Lodestar Summary

Timekeeper	Title	Hours Worked	Hourly Rate	Lodestar
David S. Casey, Jr.	Partner	5.40	\$1100.00	\$5,940.00
Gayle M. Blatt	Partner	2.90	\$995.00	\$2,885.50
Frederick Schenk	Partner	1.30	\$995.00	\$1,293.50
Jeremy Robinson	Partner	4.00	\$950.00	\$3,800.00
P. Camille Guerra (Current Rate)	Partner	12.20	\$815.00	\$9,943.00
P. Camille Guerra (Doc Review Rate)	Partner	159.00	\$525.00	\$83,475.00
Alexandra Bashkirova	Associate	118.50	\$450.00	\$53,325.00
Michelle Davis	Paralegal	1.50	\$275.00	\$412.50
Totals		304.80		\$161,074.50

EXHIBIT 4

***Gutierrez v. Amplify Energy Corp.*, No. 8:21-CV-01628-DOC(JDEx)
Aqua Terra Aeris Law Group Time and Lodestar Summary**

Timekeeper	Position	Rate	Hours	Total
Matthew Maclear	Partner	\$800.00	190	\$152,000
Tom Brett	Associate	\$590.00	153	\$90,270
Kenya Rothstein	Associate	\$450.00	70	\$31,500
Esmeralda Bustos	Paralegal	\$240.00	91	\$21,840
Theresa Trillo	Paralegal	\$200.00	22	4,400
		TOTAL	526	\$300,010

EXHIBIT 5

Aitken, Aitken, Cohn

Expenses

Category	Amount
Travel and Meals	89.76
Postage and Printing	396.84
Filing Fees	451.75
Total:	938.35

EXHIBIT 6

Aqua Terra Aeris Law Group

Expenses

Category	Amount
Travel and Meals	4,104.42
Postage and Printing	8,481.54
Filing Fees	797.68
Total:	13,383.64

EXHIBIT 7

Casey Gerry Schenk Francavilla Blatt & Penfield LLP

Expenses

Date	Category Code	Detailed Description	Amount
10/20/2021	14	Filing Fees	\$ 500.00
10/13/2021	14	Filing Fees	\$ 402.00
11/12/2021	5	Calls	\$ 6.10
10/27/2021	16	Filing Fees	\$ 233.75
1/10/2022	16	Research	\$ 25.00
10/4/2021	13	Westlaw Research	\$ 415.30
4/19/2022	13	Westlaw Research	\$ 39.53
		TOTAL:	\$ 1,621.68