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Interim Settlement Class Counsel

14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **SOUTHERN DIVISION**

18
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 STEPHEN G. LARSON IN SUPPORT OF MOTIONS FOR FINAL SETTLEMENT APPROVAL, PLANS OF DISTRIBUTION, AND ATTORNEYS' FEES AND COSTS**

25 Date: September 14, 2023
26 Time: 8:30 a.m.
27 Judge: David O. Carter
28 Courtroom: 10A

1 I, Stephen G. Larson, declare:

2 1. I am a founding partner of the law firm of Larson LLP (“Larson”) and
3 serve as Court-appointed Interim Settlement Class Counsel (“Class Counsel”) for
4 the Plaintiffs in this action. I have personal knowledge of the facts set forth in this
5 Declaration based on my day-to-day participation in the prosecution and settlement
6 of this case, and, if called as a witness, could and would testify competently to
7 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 complex mediation sessions 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. 739-4 (Declaration
24 of Layn Phillips in Support of Plaintiffs’ Motion for Preliminary Approval) ¶ 6.

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. It is
28 also my judgment that the Plans of Distribution represent a fair and equitable

1 allocation of the settlement proceeds grounded in the classwide damages models
2 Plaintiffs' experts developed over the course of many years, and that Class Counsel
3 were prepared to 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 Larson'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 the Shipping Defendants and
13 settlement thereof. Class Counsel seek fees and expenses primarily for work that
14 they performed or authorized to be performed that post-dates the Settlement with
15 Amplify, in addition to work before that date that specifically relates to the
16 Shipping Defendants. The lion's share of Class Counsel's time and expenses
17 submitted in support of this motion date from October 17, 2022 (the date Plaintiffs
18 filed their motion for preliminary approval of the Amplify settlement, *see* Dkt. 476)
19 through the date of this motion. Class Counsel have taken care not to submit any
20 time in support of this motion that was submitted in support of the fee requested for
21 the Amplify settlement, to avoid any double-counting.

22 8. All Larson time-keepers are required to contemporaneously record
23 their time in 6-minute increments. Attorneys working under my supervision audited
24 my firm's time records to confirm their accuracy. This included removing any time
25 relating only to the settlement with Amplify and certain hours as a matter of billing
26 judgment.

27 9. Larson allocated work to maximize efficiency. To the extent
28 practicable, senior attorneys did not perform work that could be accomplished by

1 more junior attorneys, and attorneys did not perform work that could be completed
2 by paralegals.

3 10. Larson billed the same rates for the litigation and settlement related to
4 the Shipping Defendants as the rates this Court approved related to the Amplify
5 settlement. *See* Dkt. 726 at 12-13. These hourly rates charged by Larson fall within
6 the range of market rates charged by attorneys of equivalent experience, skill, and
7 expertise. Larson’s rates reflect the market rates in the markets within which
8 Larson’s primary offices are located and from which this matter has been
9 handled—namely, Los Angeles and Orange County.

10 11. Federal courts have approved rates comparable to the rates requested
11 here. *See, e.g., Hefler v. Wells Fargo & Co.*, No. 16-CV-05479-JST, 2018 WL
12 6619983, at *14 (N.D. Cal. Dec. 18, 2018) (rates from \$650 to \$1,250 for partners
13 or senior counsel, \$400 to \$650 for associates); *In re Volkswagen “Clean Diesel”*
14 *Mktg., Sales Practices, & Prod. Liab. Litig.*, No. 2672 CRB (JSC), 2017 WL
15 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (billing rates ranging from \$275 to \$1600
16 for partners, \$150 to \$790 for associates, and \$80 to \$490 for paralegals found to be
17 reasonable).

18 12. Attached as Exhibit 1 is a true and correct summary lodestar chart
19 which lists: (1) the name of each Larson timekeeper who recorded time in this case;
20 (2) their title or position; (3) the total number of hours they worked on the case; (4)
21 their current hourly rate; and (5) their lodestar. As reflected in Exhibit 1, the total
22 number of hours expended in support of the litigation against and settlement with
23 the Shipping Defendants by Larson on behalf of the Classes is 853.7. The total
24 lodestar for my firm for that period is \$953,172.50.

25 13. Attorneys with four other firms also performed work at Class
26 Counsel’s direction on behalf of the Classes. Attached hereto as Exhibits 2-5 are,
27 for each such firm, (1) the name of each timekeeper who recorded time in this case;
28 (2) their title or position; (3) the total number of hours they worked on the case; (4)

1 their current hourly rate; and (5) their lodestar. In sum, those four firms performed
 2 the following hours and lodestar in support of the litigation and settlement with the
 3 Shipping Defendants:

<u>Exhibit</u>	<u>Law Firm</u>	<u>Hours</u>	<u>Lodestar</u>
2	McCune Law Group	1,195.5	\$748,775.00
3	Aqua Terra Aeris Law Group	179.7	\$92,099.00
4	Milberg Coleman Bryson Phillips Grossman, PLLC	169.1	\$95,626.40
5	Cotchett, Pitre & McCarthy, LLP	36.3	\$19,062.50

10 14. Class Counsel maintained a Common Fund for expenses incurred
 11 during the course of this litigation, which was managed by Lief Cabraser Heimann
 12 & Bernstein, LLP. The three Interim Co-Lead Counsel firms all made contributions
 13 to the Common Fund at periodic intervals as costs were incurred. Lief Cabraser
 14 maintained the books and records for the Common Fund and disbursed monies to
 15 cover case expenses as needed. Class Counsel have taken care not to submit any
 16 expenses in support of this motion that were submitted in support of the costs
 17 requested for the Amplify settlement, to avoid any double-counting.

18 15. Larson separately spent \$72,901.43 in connection with the prosecution
 19 and settlement of the case against the Shipping Defendants. The expenses are
 20 presented in summary form in Exhibit 6, which was generated from my firm's
 21 books and records. These expenses primarily consist of legal professional services,
 22 travel costs, research costs, and printing costs. These expenses were reasonably and
 23 necessarily incurred in Class Counsel's efforts to prosecute this case. The expenses
 24 here are in line with expenses Larson has incurred in other large, complex class
 25 action lawsuits it has successfully prosecuted over the years, and are the type
 26 typically billed by attorneys to clients.

27 16. Three of the other firms that performed work at Class Counsel's
 28 direction also advanced costs in connection with the prosecution and settlement of

1 this case, as reflected in Exhibits 7-9 attached hereto. In sum, those three firms
2 advanced the following costs in support of the litigation and settlement with the
3 Shipping Defendants:

<u>Exhibit</u>	<u>Law Firm</u>	<u>Expenses</u>
7	McCune Law Group	\$15,013.41
8	Aqua Terra Aeris Law Group	\$3,753.49
9	Cotchett, Pitre & McCarthy, LLP	\$2.20

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9 17. These expenses were advanced by Larson and the other firms working
10 on behalf of the Classes with no guarantee of recovery. As a result, Class Counsel
11 had a strong incentive to keep costs to a reasonable level and did so.

12 18. I expect Class Counsel’s hours will increase through final settlement
13 approval and settlement administration, meaning that any multiplier that Class
14 Counsel receive on their lodestar will continue to decrease over time.

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

17 Executed on July 31, 2023, in Los Angeles, California.

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20 _____
21 Stephen G. Larson

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EXHIBIT 1

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

Timekeeper	Title	Hours Worked	Hourly Rate	Lodestar
Stephen G. Larson	Partner	256.80	\$1,450.00	\$372,360.00
Steven E. Bledsoe	Partner	360.20	\$1,150.00	\$414,230.00
Paul A. Rigali	Partner	91.80	\$925.00	\$84,915.00
Andrew J. Bedigian	Counsel	124.50	\$615.00	\$76,567.50
Haewon Park	Paralegal	20.40	\$250.00	\$5,100.00
Totals		853.70		\$953,172.50

EXHIBIT 2

McCune Law Group, APC

Lodestar Report - Gutierrez, Peter Moses Jr., et al. v. Amplify Energy Corp.,
et al.
10/18/2022-5/3/2023

Timekeeper	Title	Hours Worked	Hourly Rate	Lodestar
David Wright	Attorney Partner Practice Group Leader	354.2	\$900	\$318,780.00
Elaine Kusel	Attorney Partner Practice Group Leader	225.1	\$750	\$168,858.75
Sherief Morsy	Attorney	91.0	\$650	\$59,150.00
Addison Alvarado	Attorney	268.2	\$400	\$107,294.00
Rebecca Dawson	Attorney	192.3	\$400	\$76,917.60
Tracey Threbits	Paralegal	64.6	\$275	\$17,774.63
Totals		1195.5		\$748,775.0

EXHIBIT 3

Aqua Terra Aeris Law Group

Name	Position	Rate	Hours	Total
Matthew Maclear	Parter	\$800.00	38.6	\$30,880.00
Jason Flanders	Parter	\$750.00	0	\$0.00
Tom Brett	Associate	\$590.00	59.9	\$35,341.00
Kenya Rothstein	Associate	\$450.00	31	\$13,950.00
Esmeralda Bustos	Paralegal	\$240.00	47.2	\$11,328.00
Theresa Trillo	Paralegal	\$200.00	3	\$600.00
Christopher Hudak	Associate	\$650.00	0	\$0.00
Erica Maharg	Partner	\$690.00	0	\$0.00
Anthony Barnes	Partner	\$800.00	0	\$0.00
		TOTAL	179.7	\$92,099.00

EXHIBIT 4

Gutierrez v. Amplify Energy Corp. No. 8:21-CV-01628DOC(JDEx)
Milberg Coleman Bryson Phillips Grossman, PLLC Time and Lodestar Summary

<u>Timekeeper</u>	<u>Title</u>	<u>Hours Worked</u>	<u>Hourly Rate</u>	<u>Lodestar</u>
Alex R. Straus	Partner	95.8	\$829	\$79,418.20
Alex Honeycutt	Associate Attorney	0.2	\$206	\$41.20
Amber Brashear	Paralegal	56.3	\$225	\$12,667.50
Cathy Bryant	Paralegal	16.5	\$208	\$3,432.00
Dawn Holt	Paralegal	0.3	\$225	\$67.50
Totals:		169.1		95,626.40

EXHIBIT 5

Cotchett, Pitre McCarthy, LLP Time and Lodestar

Timekeeper	Title	Hourly Rate	Hours Worked	Lodestar
Hannah Brown	Associate	\$600.00	25.4	\$ 15,240.00
Mallory Soto	Paralegal	\$275.00	13.9	\$ 3,822.50
TOTAL			39.3	\$ 19,062.50

EXHIBIT 6

Larson LLP

Costs

Category	Amount
Legal Professional Services	\$10,662.55
Printing & Scanning	\$454.05
Legal Research Services	\$1,122.31
Travel Costs	\$60,662.52
TOTAL	\$72,901.43

EXHIBIT 7

McCune Law Group, APC

Cost Report - Gutierrez, Peter Moses Jr., et al. v. Amplify Energy Corp., et al.

10/18/2022-5/3/2023

Costs Incurred by Category	Amount
Telephone Conference Charges	\$63.39
Travel	\$14,950.02
Total	\$15,013.41

EXHIBIT 8

Aqua Terra Aeris Law Group

Expenses

Category	Amount
Travel and Meals	\$3,655.89
Postage	\$97.60
Total	\$3,753.49

EXHIBIT 9

Cotchett, Pitre McCarthy, LLP Expenses

Category	Date	Amount
Printing	10/31/2022	\$2.20