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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

PETER MOSES GUTIERREZ, JR.,
et al.,

Plaintiffs,

v.

AMPLIFY ENERGY CORP., *et al.*,

Defendants.

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

**ORDER GRANTING PLAINTIFFS'
MOTION FOR APPROVAL OF
PLAINTIFFS' PLANS OF
DISTRIBUTION [775][760]**

Date: September 14, 2023
Time: 8:30 a.m.
Judge: David O. Carter
Room: 10A

1 Plaintiffs have moved for an order approving the Plans of Distribution for the
2 Fisher Class (Dkt. 752-1), Property Class (Dkt. 752-2), and the Waterfront Tourism
3 Class (Dkt. 752-3). Upon due consideration of the motion and all of the papers,
4 pleadings and files in this action, and good cause appearing, the Court GRANTS
5 the motion.

6 As part of its review of a proposed settlement, the trial court should consider
7 “the effectiveness of any proposed method of distributing relief to the class,
8 including the method of processing class-member claims.” Fed. R. Civ. P.
9 23(e)(2)(C)(ii). Likewise, Rule 23(e)(2)(D) asks whether “the proposal [for
10 distribution among class members] treats class members equitably relative to each
11 other.” Relevant considerations may include “whether the apportionment of relief
12 among class members takes appropriate account of differences among their claims,
13 and whether the scope of the release may affect class members in different ways
14 that bear on the apportionment of relief.” Fed. R. Civ. P. 23(e)(2), 2018 adv. comm.
15 note.

16 Fundamentally, “[a]ssessment of a plan of allocation of settlement proceeds
17 in a class action under Fed. R. Civ. P. 23 is governed by the same standards of
18 review applicable to the settlement as a whole – the plan must be fair, reasonable,
19 and adequate.” *In re Illumina, Inc. Sec. Litig.*, No. 3:16-CV-3044-L-MSB, 2021
20 WL 1017295, at *4 (S.D. Cal. Mar. 17, 2021) (*citing Class Pls. v. City of Seattle*,
21 955 F.2d 1268, 1284–85 (9th Cir. 1992)). The plan “need only have a reasonable,
22 rational basis, particularly if recommended by experienced and competent class
23 counsel.” *Jenson v. First Tr. Corp.*, No. CV 05-3124 ABC (CTX), 2008 WL
24 11338161, *9 (C.D. Cal. June 9, 2008) (citation omitted).

25 The Court has reviewed the Plans of Distribution and finds that they meet the
26 standards for approval. The Plans establish a simple and fair distribution process.
27 All identifiable Class Members that do not opt out will be sent a check, obviating
28 the need for a claims process entirely.

1 The Fisher Plan awards Class Members their pro rata share of the settlement,
2 and the Property Plan awards Class Members equal shares. The Waterfront Tourism
3 Plan awards pro rata shares to Class Members in business categories for which pro
4 rata shares of losses can be estimated. For Waterfront Tourism Class Members in
5 business categories for which pro rata shares cannot be reasonably estimated, the
6 Waterfront Tourism Plan awards equal shares of estimated losses for each of those
7 business categories. Distribution methods such as these are regularly approved as
8 fair and reasonable. *Koenig v. Lime Crime, Inc.*, No. CV 16-503 PSG (JEMX),
9 2018 WL 11358228, at *4 (C.D. Cal. Apr. 2, 2018) (approving payment of equal
10 shares for portion of settlement); *In re High-Tech Emp. Antitrust Litig.*, 2015 WL
11 5159441, at *8 (N.D. Cal. Sept. 2, 2015) (approving payment based on “fractional
12 share[s]”); *Jenson*, 2008 WL 11338161, at *10 (approving distinctions in plan of
13 allocation as reasonably reflecting likelihood of recovery of subgroups within the
14 class); *In re Biolase, Inc. Sec. Litig.*, No. SA-CV-13-1300-JLS-FFMX, 2015 WL
15 12720318, at *5 (C.D. Cal. Oct. 13, 2015) (variable pro rata distribution plan based
16 upon relative injuries of class members approved).

17 No Class members objected to any of the Plans of Distribution. This response
18 speaks to the Class members’ support for the Plans of Distribution. *See In re*
19 *Heritage Bond Litig.*, No. 02-ML-1475 DT, 2005 WL 1594403, at *12 (C.D. Cal.
20 June 10, 2005); *see also In re Volkswagen “Clean Diesel” Mktg., Sales Pracs., &*
21 *Prod. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2019 WL 2077847, at *3 (N.D. Cal.
22 May 10, 2019).

23 This Court approved substantially similar Plans of Distribution in the
24 settlement with the Amplify defendants. *See* Dkt. 727 (order approving Amplify
25 Plans of Distribution); Dkt. 739-3 (Tr. of Apr. 24, 2023 Hr’g at 4:10-7:1)
26 (describing Amplify Plans of Distribution as “extraordinarily well-thought-out”).
27 No class members there—the exact same Class Members here—objected to the
28 Amplify Plans of Distribution. *Id.* at 3.

1 The two differences between the Plans of Distribution here and those
2 approved in the Amplify settlement both benefit Class Members: (a) no payments
3 will be offset by prior payments received under the Oil Pollution Act, and (b) no
4 Waterfront Tourism Class Members will need to submit claims to receive
5 payments. *See* Dkt. 752-3 (proposed Plan of Distribution for Waterfront Tourism
6 Class).

7 Accordingly, the Court finds that the Fisher, Property, and Waterfront
8 Tourism Plans are fair and reasonable and meet the standard for approval under
9 Rule 23(e). Plaintiffs' motion is GRANTED.

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11 IT IS SO ORDERED.

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13 Dated: September 14, 2023

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Hon. David O. Carter

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