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8 *Class Counsel*

9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12
13 KEITH ANDREWS, an individual,
14 et al.,

15 Plaintiffs,

16 v.

17 PLAINS ALL AMERICAN
18 PIPELINE, L.P., a Delaware limited
19 partnership, et al.,

20 Defendants.

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

**DECLARATION OF WILLIAM M.
AUDET IN SUPPORT OF MOTIONS
FOR FINAL SETTLEMENT
APPROVAL, PLANS OF
DISTRIBUTION, AND ATTORNEYS'
FEES AND COSTS**

Date: September 16, 2022

Time: 1:30 p.m.

Judge: Hon. Philip S. Gutierrez

Courtroom: 6A

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1 I, William Audet, hereby declare as follows:

2 1. I am an attorney and the founding partner for the law firm AUDET &
3 PARTNERS, LLP, and a member in good standing with the State Bar of California. I
4 am one of the four Court-appointed class co-counsel in this action (*Andrews v. Plains*
5 *All American Pipeline, LP*, Case No. 2:15-cv-04113). I have personal knowledge of
6 the matters stated below based on my day-to-day involvement in this litigation, and if
7 called as a witness, I could and would testify competently thereto under oath.

8 2. I submit this declaration in support of the Plaintiffs’ motions for final
9 approval of the settlement, for the Plans of Distribution, and for attorneys’ fees and
10 costs, and class representative service awards (hereafter “Plaintiffs’ Motions”).

11 3. My *curriculum vitae* (“CV”) and my law firm’s resume (“Resume”),
12 demonstrate the significant experience and qualifications I brought to bear in this
13 matter. Dkt. 33-5 at 7-25. The Resume summarizes AUDET & PARTNERS, LLP’s
14 experience in complex class litigation and other types of high-profile cases, including
15 prior work and experience on another federal oil spill class case (lead counsel in the
16 Bay Area’s *Cosco Busan* oil spill), and class counsel in the first of its kind case
17 representing a class of Mexican fishermen impacted by the Deepwater Horizon – BP
18 Gulf of Mexico Oil Spill (the first Mexican class action under the country’s new
19 collective action statutory scheme).

20 4. My CV also highlights my professional career as an attorney, a law clerk
21 in both federal district courts and the Ninth Circuit,¹ and as a clinical professor at the
22 U.W. School of Law (Madison) providing free legal services to indigent individuals.
23 It further details that in addition to receiving a Bachelor of Arts from the University
24 of California (Davis), and a J.D. in 1984, three years later I was awarded a Master of
25

26 _____
27 ¹ I had the honor of clerking for the Ninth Circuit Court of Appeals, with two
28 subsequent clerkships with the United States District Court Judge The Honorable Fern
M. Smith (inaugural law clerk), and then with The Honorable Alphonso Zirpoli (final
law clerk).

1 Law from the University of Wisconsin (Madison), School of Law. More recently, and
2 due to my financial, time, and academic contributions to the legal community, as well
3 as my pro bono work, I was awarded an LL.D (Doctorate of Law) from Golden Gate
4 University, School of Law and served as the guest speaker for the graduating law
5 class that same year.

6 5. On February 28, 2017, I was appointed as co-lead class counsel for the
7 plaintiffs and putative classes, along with other attorneys from the law firms: Lieff,
8 Cabraser, Heimann & Bernstein, LLP; Keller Rohrback L.L.P; and Cappello & Noel.

9 6. After I was appointed as co-lead class counsel, I and the attorneys and
10 staff at AUDET & PARTNERS, LLP directly worked on and/or indirectly assisted
11 other attorneys in other firms on a host of important pretrial activities. In coordination
12 with the other law firms, my office and I provided not only our time, but my office's
13 resources, staff, and technology capabilities. These activities are generally
14 summarized in the concurrently filed Declaration of Robert J. Nelson and will not be
15 repeated here except to note that based on my prior and current experience in oil spill
16 litigation (Dkt. 33-5), my firm was tasked with dealing with Oil Pollution Act related
17 issues, and based on my expertise on discovery matters (as exemplified in my
18 authorship of an annual treatise of federal discovery (entitled HANDLING FEDERAL
19 DISCOVERY (24th ed.)), I and my firm worked on key discovery matters throughout
20 the litigation.

21 7. I and my Co-lead Counsel worked together at all times in an efficient
22 manner while avoiding redundant efforts and wasted hours by assigning tasks during
23 weekly calls. The case was extremely complex and we faced one of the best law
24 firms in the United States, hired by a party with nearly unlimited resources.

25 8. The entirety of this work was performed on a purely contingent basis
26 with no guarantee of success or payment. Neither my firm nor I have received any
27 compensation for our efforts during this litigation. Throughout the litigation, I
28 coordinated with members of my firm to divide up work efficiently and cost-

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1 effectively thereby ensuring that all work was performed without duplication. All
2 attorneys, paralegals, law clerks, and support staff at my firm are instructed to
3 maintain and record in good faith time spent on this case (and all other cases) and to
4 keep as best as practical contemporaneous time records of the firm reflecting the time
5 spent on this and other matters.

6 9. As noted in the preliminary approval papers, I believe that the settlement
7 exceeds the criteria for final approval as outlined in Rule 23 and the applicable case
8 law of this Circuit. Considering all relevant factors, the settlement is an excellent one
9 that should be approved by the Court. As outlined in the submissions to this Court,
10 the settlement provides real value to the class and in light of the risks associated with
11 trial and likely appeals, warrants approval by this Court. Absent approval of the
12 settlement, the class risks receiving nothing. Even if the Plaintiffs were to be
13 successful at trial, the defendants would likely have appealed, dragging on the
14 process for several years. In contrast, this settlement provides real value and real
15 monetary and non-monetary consideration to the class. I recommend the Court
16 approve the settlement, the plan of distribution, and the request for fees, expenses,
17 and incentive awards.

18 **AUDET & PARTNERS, LLP's Summary of Lodestar & Costs Incurred**

19 10. Attached as **Exhibit A** is a true and correct summary lodestar chart
20 which lists: (1) the name/role of each timekeeper who recorded time in this Action;
21 (2) their rate; (3) the total number of hours they worked on the Action through and
22 including July 22, 2022; and (5) their total lodestar. I have reviewed these hours and,
23 like my Class Co-Counsel, the summary reflects work done in this matter for the
24 Settlement Class(es). For attorneys or support staff who no longer work with
25 AUDET & PARTNERS, LLP, the current hourly rate represents the rate for that
26 individual in his or her final year of work with the firm. As reflected in **Ex. A**
27 AUDET & PARTNERS, LLP has expended approximately 7,044 total hours on this
28 matter through July 22, 2022.

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1 11. Further attached as **Exhibit B** is a summary of each timekeeper's years
2 of experience compared with his or her hourly rate. The qualifications for several of
3 the attorneys from AUDET & PARTNERS, LLP can also be found in the Audet
4 Resume. Dkt. 33-5 at 7-23.

5 12. All of the rates outlined in the above Exhibits have been submitted
6 and/or approved by a federal court in this or another jurisdiction or, as established by
7 the Ninth Circuit, are in line with such prior approval and with the prevailing market
8 rate where the court sits. For example, eleven of the fifteen listed attorneys have had
9 their current or comparable rates approved in recent years in one or more class action
10 matters.² Three attorneys have a billing rate here that is lower than what has
11 previously been approved in other federal district courts. *See* fn. 2. This includes
12 associate attorney Ling (David) Kuang, who has contributed far more hours than any
13 other non-partner Audet attorney in this case.³ For the remaining attorneys, their rates
14 are in line with former approvals and/or supported by comparisons to indices like the
15 2021 Real Rate Report® by Wolters Kluwer. Mr. William M. Audet's rate of \$995,
16 for example, is \$47/hour lower than the comparison to the Third-Quartile of
17 Litigation Partners in the Los Angeles region for 2021, despite my significant
18 experience in the class action realm and specifically about oil spill matters. Closer
19 comparisons of the rates listed and the 2021 Real Rate Report® by Wolters Kluwer
20 demonstrate also that ten of the Audet attorneys have rates that are \$134 to \$348
21 lower than the mean/average trend in 2021 for associate attorneys in the Los Angeles
22

23 ² *See, e.g., Torch v. Windsor*, 3:17-cv-01868-AA (D. Or. June 28, 2022); *Morrison v.*
24 *Ross*, 4:18-cv-02671 (N.D. Cal Feb. 16, 2022); *In re Navistar MaxxForce Engines*
25 *Marketing, Sales Practices and Products Liability Litigation*, 1:14-cv-10318, (N.D.
26 Ill. Jan. 21, 2020); *Bhatia v. 3M Co.*, 0:16-cv-01304-DWF-DTS (D. Minn. Sep. 11,
2019); *In re: Rust-Oleum Restore Mktg., Sales Practices and Prods. Liab. Litig.*, 1:15-
cv-01364 (N.D. Ill. Mar. 6, 2017).

27 ³ Mr. Kuang, with a billing rate of \$395 for this matter, previously had rates approved
28 of for \$450 (*Torch v. Windsor*, 3:17-cv-01868-AA (D. Or. June 28, 2022)) and \$425
(*Morrison v. Ross*, 4:18-cv-02671 (N.D. Cal Feb. 16, 2022)).

1 region based on comparable years of experience. Finally, all rates listed for staff
2 members are significantly lower (~30% to 40% lower) than the mean/average in 2021
3 for all paralegals (High-Level Data Cuts in 2021 Real Rate Report®).

4 13. The requested hourly rate for every attorney at my firm is more than
5 justified when compared to the prevailing rate for similar-level attorneys and legal
6 professionals. **Ex. B.** My hourly rate is listed at \$995.00 per hour and is in line with
7 the rates of lawyers in this prevailing market and commensurate with my level of
8 experience (nearly 40 years of complex class litigation experience, with directly
9 relevant experience litigating an oil spill, coupled with foundational experience
10 clerking in the federal judiciary and authoring a treatise on discovery).

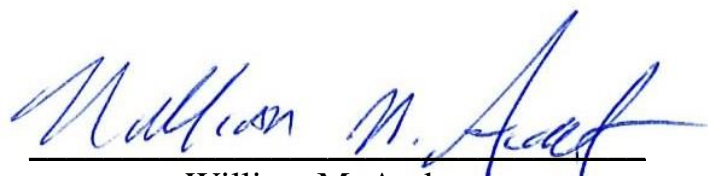
11 14. Like my Class Co-Counsel and wherever possible, to reduce duplication
12 and ensure tasks were assigned to the appropriate level staff while ensuring minimal
13 rates charged to the class(es), associate-level attorneys, and staff at my office did a
14 significant portion of the work. **Ex. A.** The work done by non-partners equated to
15 nearly two-thirds (~63%) of AUDET & PARTNERS, LLP's hours incurred.

16 15. My firm had held costs of \$54,484.29 for this case. These expenses are
17 presented in summary form in **Exhibit C** attached hereto. All expenses (including
18 separate assessments) were reasonably and necessarily incurred in Class Counsel's
19 efforts to prosecute the Plaintiffs' claims on behalf of the Class. The expenses here
20 are in line with expenses AUDET & PARTNERS, LLP has incurred in the countless
21 other complex class action lawsuits it has successfully prosecuted, and are the type
22 typically billed by attorneys to clients. The costs and expenses are kept on the firm's
23 electronic record-keeping software program, with a backup system.

24
25 I declare under penalty of perjury under the laws of the United States that the
26 foregoing is true and correct to the best of my personal knowledge, and with respect
27 to those matters stated on information and belief, believe them to be true and correct.
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Executed in California, on Friday, July 29, 2022.



William M. Audet

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EXHIBIT A

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Andrews, et al. v. Plains All American Pipeline, LP, et al.
Summary Lodestar - Inception through July 22, 2022

Attorney:	Hours	Rate	Common Lodestar
William M. Audet (P)	2,629.94	\$995.00	\$2,616,790.30
S. Clinton Woods	20.50	\$495.00	\$10,147.50
Daniel Plotnick	330.18	\$325.00	\$107,308.50
Elvin Vu	612.35	\$350.00	\$214,322.50
Gwendolyn (Wendy) Giblin	378.95	\$650.00	\$246,317.50
Jonas Mann	28.30	\$450.00	\$12,735.00
Joshua Ezrin	23.15	\$725.00	\$16,783.75
Karly Roberson	135.02	\$200.00	\$27,004.00
Kurt Kessler	281.02	\$350.00	\$98,357.00
Ling (David) Kuang	1,949.45	\$395.00	\$770,032.75
Melanie Lawton	62.25	\$250.00	\$15,562.50
Rajiv Thairani	51.45	\$325.00	\$16,721.25
Steven Weinmann	28.00	\$795.00	\$22,260.00
Theodore Chase	51.20	\$225.00	\$11,520.00
Thom Smith	66.50	\$650.00	\$43,225.00
			Total: \$4,229,087.55
Paralegal / Legal Assistant			
Harold Darling	147.90	\$150.00	\$22,185.00
Ana Davila	41.60	\$175.00	\$7,280.00
Nick Perez	206.85	\$165.00	\$34,130.25
			Total: \$63,595.25
Total Hours:	7,044.61	Total Lodestar:	\$4,292,682.80

EXHIBIT B

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NAME	RATE	EXPERIENCE
P: Partner A: Attorney or Associate P/LA: Paralegal or Legal Assistant		Years of Experience ¹ & Year Attorney Joined Bar
William M. Audet (P)	\$995.00	37 Years (1985 CA)
S. Clinton Woods (A)	\$495.00	13 Years (2006 CA)
Daniel Plotnick (A)	\$325.00	3 Years (2014 CA)
Elvin Vu (A)	\$350.00	5 Years (2015 CA)
Gwendolyn (Wendy) Giblin (A)	\$650.00	23 Years (1996 CA)
Jonas Mann (A)	\$450.00	7 Years (2009 CA)
Joshua Ezrin (A)	\$725.00	14 Years (2002 CA)
Karly Roberson (A)	\$200.00	1 Years (2017 CA)
Kurt Kessler (A)	\$350.00	3 Years (2019 CA)
Ling (David) Kuang (A)	\$395.00	8 Years (2014 CA)
Melanie Lawton (A)	\$250.00	4 Years (2014 MA)
Rajiv Thairani (A)	\$325.00	3 Years (2015 NY)
Steven Weinmann (A)	\$795.00	22 Years (1997 CA)
Theodore Chase (A)	\$225.00	2 Years (2014 CA)
Thom Smith (A)	\$650.00	23 Years (1999 CA)
Harold Darling (P/LA)	\$150.00	-
Ana Davila (P/LA)	\$175.00	-
Nick Perez (P/LA)	\$165.00	-

¹ Some attorneys are no longer associated with AUDET & PARTNERS, LLP (“the Firm”). For all such attorneys, the “**Years of Experience**” denotation has been lowered and based on the experience level of the attorney during the last year he or she was with the Firm. The Year he/she joined the State Bar has not been modified and listed for reference.

EXHIBIT C

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Andrews, et al. v. Plains All American Pipeline, LP, et al.
Summary of Held Costs - Inception through July 22, 2022

AUDET & PARTNERS, LLP	
HELD COSTS	
Category:	Amount
Travel	\$ 7,678.82
Telephone/Facsimile	\$ 3,640.15
Postage/Express Delivery	\$ 59.70
Commercial Copy	\$ 6,408.35
Internal Copy	\$ 2,843.00
Court Fees	\$ 1,864.47
Computer Research	\$ 31,989.80
TOTAL	\$ 54,484.29