



Link 976

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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-JEMx

[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)]

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR APPROVAL OF  
PLANS OF DISTRIBUTION**

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

1	Plaintiffs,
2	v.
3	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,
4	
5	
6	
7	Defendants.

8 Plaintiffs have moved for an order approving the Plan of Distribution for the  
 9 Fisher Class (Dkt. 951-1) and the Plan of Distribution for the Property Class (Dkt.  
 10 951-2). Upon due consideration of the motion and all of the papers, pleadings and  
 11 files in this action, and good cause appearing, the Court **GRANTS** the motion.

12 As part of its review of a proposed settlement, the trial court should consider  
 13 “the effectiveness of any proposed method of distributing relief to the class,  
 14 including the method of processing class-member claims.” Fed. R. Civ. P.  
 15 23(e)(2)(C)(ii). “A claims processing method should deter or defeat unjustified  
 16 claims, but the court should be alert to whether the claims process is unduly  
 17 demanding.” Fed. R. Civ. P. 23(e), 2018 adv. comm. note. Likewise, Rule  
 18 23(e)(2)(D) asks whether “the proposal [for distribution among class members]  
 19 treats class members equitably relative to each other.” Relevant considerations may  
 20 include “whether the apportionment of relief among class members takes  
 21 appropriate account of differences among their claims, and whether the scope of the  
 22 release may affect class members in different ways that bear on the apportionment  
 23 of relief.” Fed. R. Civ. P. 23(e)(2), 2018 adv. comm. note.

24 Fundamentally, “[a]ssessment of a plan of allocation of settlement proceeds  
 25 in a class action under Fed. R. Civ. P. 23 is governed by the same standards of  
 26 review applicable to the settlement as a whole – the plan must be fair, reasonable,  
 27 and adequate.” *In re Illumina, Inc. Sec. Litig.*, No. 3:16-CV-3044-L-MSB, 2021  
 28 WL 1017295, at \*4 (S.D. Cal. Mar. 17, 2021) (*citing Class Pls. v. City of Seattle*,

1 955 F.2d 1268, 1284–85 (9th Cir. 1992)). The plan “need only have a reasonable,  
2 rational basis, particularly if recommended by experienced and competent class  
3 counsel.” *Jenson v. First Tr. Corp.*, No. CV 05-3124 ABC (CTx), 2008 WL  
4 11338161, \*9 (C.D. Cal. June 9, 2008) (citation omitted).

5 The Court has reviewed the two Plans of Distribution and finds that they  
6 meet the standards for approval. The Plans establish a simple and fair claims  
7 process. The information requested on the claim forms is sufficiently detailed to  
8 verify membership in the Classes, but also avoids requiring information that is  
9 burdensome or readily obtained elsewhere, such as landings data from the  
10 California Department of Fishing and Wildlife (CDFW) or individual property  
11 records.

12 The distributions to verified claimants are fair and reasonable and based on  
13 the classwide damages models Plaintiffs intended to present at trial. The Fisher  
14 Plan distributes the Fisher Net Settlement Fund based largely on the claimant’s  
15 proportional share of landings, and also includes a fixed payment distributed  
16 equally to all verified claimants, thus ensuring all claimants receive meaningful  
17 compensation in exchange for releasing their claims. The Property Plan likewise  
18 distributes the Property Net Settlement Fund based on each property’s proportional  
19 loss of use value, supplemented with additional payments for properties with more  
20 severe oiling.

21 Distribution methods such as these are regularly approved as fair and  
22 reasonable. *Koenig v. Lime Crime, Inc.*, No. CV 16-503 PSG (JEMx), 2018 WL  
23 11358228, at \*4 (C.D. Cal. Apr. 2, 2018) (approving payment of equal shares for  
24 portion of settlement); *In re High-Tech Emp. Antitrust Litig.*, 2015 WL 5159441, at  
25 \*8 (N.D. Cal. Sept. 2, 2015) (approving payment based on “fractional share[s]”);  
26 *Jenson, v. First Tr. Corp.*, 2008 WL 11338161, at \*10 (approving distinctions in  
27 plan of allocation as reasonably reflecting likelihood of recovery of subgroups  
28 within the class); *In re Biolase, Inc. Sec. Litig.*, No. SA-CV-13-1300 JLS (FFMx),

1 2015 WL 12720318, at \*5 (C.D. Cal. Oct. 13, 2015) (variable pro rata distribution  
2 plan based upon relative injuries of class members approved).

3 No Class members objected to the Fisher Plan of Distribution or the Property  
4 Plan of Distribution.<sup>1</sup> This response speaks to the Class members’ support for the  
5 Plans of Distribution. *See In re Heritage Bond Litig.*, No. 02-ML-1475 DT, 2005  
6 WL 1594403, at \*12 (C.D. Cal. June 10, 2005); *see also In re Volkswagen “Clean*  
7 *Diesel” Mktg., Sales Pracs., & Prod. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2019  
8 WL 2077847, at \*3 (N.D. Cal. May 10, 2019).

9 Accordingly, the Court finds that the Fisher and Property Plans are fair and  
10 reasonable and meet the standard for approval under Rule 23(e). Plaintiffs’ motion  
11 is **GRANTED**. Without affecting the finality of this Order, the Court reserves  
12 jurisdiction over the Plans of Distribution and any other matters related or ancillary  
13 to the foregoing.

14  
15 **IT IS SO ORDERED.**

16  
17 Dated: September 20, 2022

18  
19 

20 HON. PHILIP S. GUTIERREZ  
21 UNITED STATES DISTRICT JUDGE

22  
23  
24  
25  
26  
27  
28 <sup>1</sup> One Class member objected to the Property Plan of Distribution but has since  
withdrawn the objection.