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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

MAR 04 2024

BY   
JESSICA MORALES, DEPUTY

Attorneys for Plaintiffs Joseph Kelly and Gilbert Romero

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

JOSEPH KELLY, individually, and on behalf of  
other members of the general public similarly  
situated,

Plaintiff,

vs.

ARIZONA PIPELINE COMPANY, an Arizona  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. CIVDS1812287

Assigned to the Hon. Jessica Morgan

**[PROPOSED] ORDER AND JUDGMENT  
GRANTING MOTION FOR FINAL  
APPROVAL OF CLASS ACTION AND  
PAGA SETTLEMENT AND MOTION FOR  
ATTORNEYS' FEES, COSTS AND  
EXPENSES, AND CLASS  
REPRESENTATIVE ENHANCEMENT  
PAYMENTS**

Date: March 4, 2024  
Time: 8:30 a.m.  
Place: Department S26

Complaint Filed: May 21, 2018  
Trial Date: None Set

1 This matter came before the Court for a hearing on the Motion for Final Approval of the Class  
2 Action and PAGA Settlement and Motion for Attorneys' Fees, Costs and Expenses, and Class  
3 Representative Enhancement Payments (collectively, the "Motions"). Due and adequate notice having  
4 been given to Class Members as required by the Court's Preliminary Approval Order, and the Court  
5 having reviewed the Motions, and determining that the settlement is fair, adequate and reasonable, and  
6 otherwise being fully informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS**  
7 **FOLLOWS:**

8 1. For the reasons set forth in the Preliminary Approval Order, which are adopted and  
9 incorporated herein by reference, this Court finds that the requirements of California Code of Civil  
10 Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

11 2. This Order hereby adopts and incorporates by reference the terms and conditions of the  
12 Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement" or  
13 "Settlement"), together with the definitions and terms used and contained therein.

14 3. The Court finds that it has jurisdiction over the subject matter of the action and over all  
15 parties to the action, including all members of the Settlement Class.

16 4. The Class Notice fully and accurately informed Class Members of all material elements  
17 of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable  
18 under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully  
19 with the laws of the State of California and due process. The Class Notice fairly and adequately  
20 described the settlement and provided Class Members with adequate instructions and a variety of means  
21 to obtain additional information.

22 5. Class Members were given a full opportunity to participate in the Final Approval  
23 hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the  
24 Court determines that all Class Members who did not timely and properly opt out of the settlement are  
25 bound by this Order.

26 6. The Court has considered all relevant factors for determining the fairness of the  
27 settlement and has concluded that all such factors weigh in favor of granting final approval. In particular,  
28 the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiffs' Counsel; that the settlement is the result of serious, informed, adversarial, and  
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,  
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence  
5 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented; the  
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and  
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with  
8 sufficient information about the nature and magnitude of the claims being settled, as well as the  
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to  
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement  
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the  
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,  
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will  
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were  
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the  
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement  
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendant or by any other Released  
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or  
21 any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to  
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used  
23 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability  
24 whatsoever by or against Defendant or any of the other Released Parties.

25 10. With the exception of the seven individual who opted out of the Settlement Class, final  
26 approval shall be with respect to: All persons who worked for Defendants as non-exempt, hourly paid  
27 employees in the State of California at any time from May 23, 2014 through May 27, 2023.

28 11. Plaintiffs Joseph Kelly and Gilbert Romero are adequate and suitable representatives and

1 are hereby appointed the Class Representatives for the Settlement Class. The Court finds that Plaintiffs'  
2 investment and commitment to the litigation and its outcome ensured adequate and zealous advocacy for  
3 the Settlement Class, and that their interests are aligned with those of the Settlement Class.

4 12. The Court hereby awards Plaintiffs' Class Representative Enhancement Payments of  
5 \$10,000, each, for their service on behalf of the Settlement Class, and for agreeing to general releases of  
6 all claims arising out of their employment with Defendant.

7 13. The Court finds that the attorneys at Capstone Law APC have the requisite  
8 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The  
9 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position  
10 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

11 14. The settlement of civil penalties under PAGA in the amount of \$100,000 is hereby  
12 approved. Seventy-Five Percent (75%), or \$75,000, shall be paid to the California Labor and Workforce  
13 Development Agency. The remaining Twenty-Five Percent (25%), or \$25,000, will be paid to PAGA  
14 Members.

15 15. The Court hereby awards \$750,000 in attorneys' fees and \$26,270.51 in costs and  
16 expenses to Capstone Law APC. The Court finds that the requested award of attorneys' fees is  
17 reasonable for a contingency fee in a class action such as this; i.e., one-third of the common fund created  
18 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'  
19 fees via their lodestar crosscheck, and the Court finds that the rates and hours billed are fair and  
20 reasonable.

21 16. The Court approves settlement administration costs and expenses in the amount of  
22 \$22,000 to CPT Group, Inc.

23 17. All Class Members were given a full and fair opportunity to participate in the Approval  
24 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the  
25 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed  
26 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order  
27 and Judgment shall be forever binding on all Participating Class Members. These Participating Class  
28 Members have released and forever discharged the Released Parties for any and all Released Class

1 Claims during the Class Period:

2 All claims, rights, demands, liabilities, and causes of action, reasonably arising  
3 from, or reasonably related to, the same set of operative facts as those set forth in  
4 the operative complaint during the Class Period, including, but not limited to,  
5 claims for violation of: (1) Cal. Lab. Code §§ 510 and 1198 (unpaid overtime); (2)  
6 Cal. Lab. Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum  
7 wages); (3) Cal. Lab. Code §§ 226.7, 512(a), and 1198 (failure to provide meal  
8 periods); (4) Cal. Lab. Code §§ 226.7 and 1198 (failure to provide rest periods);  
9 (5) Cal. Lab. Code §§ 226.7 and 1198 (failure to provide recovery periods); (6)  
10 Cal. Lab. Code §§ 226(a), 1174(d), and 1198 (non-compliant wage statements and  
11 failure to maintain payroll records); (7) Cal. Lab. Code §§ 201 and 202 (wages not  
12 timely paid upon termination); (8) Labor Code § 1198 and California Code of  
13 Regulations Title 8, Cal. Lab. Code § 11160 Subdivision 5(A) (failure to provide  
14 reporting time pay); (9) Cal. Lab. Code § 2802 (unreimbursed business expenses);  
15 (10) California Business & Professions Code §§ 17200, *et seq.* (unlawful business  
16 practices); and (11) California Business & Professions Code §§ 17200, *et seq.*  
17 (unfair business practices).\_

18 18. Additionally, all PAGA Members and the LWDA have released and forever discharged  
19 the Released Parties for any and all Released PAGA Claims during the PAGA Period: All claims for  
20 civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought in the operative  
21 complaint or could reasonably have been brought based on the facts alleged in Plaintiffs' LWDA letter  
22 during the PAGA Period.

23 19. Judgment in this matter is entered in accordance with the above findings. Without  
24 affecting the finality of the Judgment, the Court shall retain exclusive and continuing jurisdiction over the  
25 above-captioned action and the parties under Cal. Civ. Proc. Code § 664.4, including all Participating  
26 Settlement Members and PAGA Members, for purposes of enforcing the terms of the Judgment entered  
27 herein.

28 20. The Court sets a compliance hearing for February 13, 2025 at 8:30 a.m., at which time  
the Court will consider evidence that the distribution process is complete and that a final accounting may  
be approved. Plaintiffs shall file a declaration from the Settlement Administrator regarding the  
completion of settlement administration activities no later than January 10, 2025, as well as an amended  
judgment regarding the distribution of unclaimed residuals to Worksafe.

**IT IS SO ORDERED, ADJUDGED, AND DECREED**

Dated: 3/4/24

  
\_\_\_\_\_  
Hon. Jessica Morgan  
San Bernardino County Superior Court Judge

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