

1 JOSHUA F. YOUNG (Bar No. 232995)
(Email: jyoung@gslaw.org)
2 JOSHUA ADAMS (Bar No. 261658)
(Email: jadams@gslaw.org)
3 MITZI MARQUEZ-AVILA (Bar No. 329032)
(Email: mmarquez@gslaw.org)
4 **GILBERT & SACKMAN**
A LAW CORPORATION
5 3699 Wilshire Boulevard, Suite 1200
Los Angeles, California 90010-2732
6 Tel: (323) 938-3000
Fax: (323) 937-9139

7 Attorneys for Plaintiffs
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN BERNARDINO**
12

13 TODD WESTPHAL, JOHN MORTIMORE,
14 MANUEL PEREZ, and CHRISTOPHER
HIGGINS,

15 Plaintiffs,

16 v.

17 SOUTHWEST GAS CORP., SOUTHWEST GAS
18 UTILITY GROUP, INC., SOUTHWEST GAS
HOLDINGS, INC., and DOES 1 through 20,
19 inclusive,

20 Defendants.
21
22
23
24

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

SEP 14 2023

BY 
JESSICA MORALES, DEPUTY

Case No. CIVDS1813554

Assigned to the Hon. David Cohn,
Department S26

CLASS ACTION

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS FEES AND
REIMBURSEMENT OF COSTS**

Hrg. Date: Sept. 14, 2023
Hrg. Time: 9:00 am
Location: Dept. S26

Action Filed: June 1, 2018



1 The unopposed Motion for Final Approval of Class Action Settlement and Motion for Attorneys'
2 Fees and Reimbursement of Costs came on for hearing before this Court, the Honorable ^{Jessica Morgan} ~~David Cohn~~
3 presiding, on 9.14, 2023. The Court, having considered the papers submitted in support of the
4 motions and having heard oral argument of the parties, IT IS HEREBY ORDERED AND DECREED
5 THAT:

6 1. This Court has jurisdiction over the subject matter of this Action and over all parties to this
7 Action, including all members of the Settlement Class. The Court grants final approval of the settlement
8 based upon the terms set forth in the Class Action and PAGA Settlement Agreement (the "Settlement" or
9 "Agreement").

10 2. The Court hereby certifies a Settlement Class as defined in the Settlement pursuant solely
11 for the purposes set forth therein. The Settlement Class is defined as:

12 All current and former hourly California non-exempt employees of Defendants who were
13 scheduled to be "on call" at any time during the Class Period (i.e., June 1, 2014 to
14 November 28, 2017).

15 3. The Court hereby determines that the settlement as set forth in the Agreement falls within
16 the range of reasonableness and appears to be valid. There were 0 objections raised at the final
17 settlement hearing. It appears to the Court that substantial investigation and research has been conducted
18 such that counsel for the Parties are reasonably able to evaluate their respective positions. It further
19 appears to the Court that settlement will avoid substantial additional costs by all parties, as well as the
20 delay and risk that would be presented by further prosecution of the Actions. It further appears to the
21 Court that the proposed settlement that has been reached is the result of intensive, serious, non-collusive,
22 arm's-length negotiations.

23 4. The Court approves, as to form and content, the form of Class Notice attached to the
24 declaration of Veronica Oliveras of CPT Group, Inc. ("CPT Group" or "Settlement Administrator")
25 regarding Notice and Settlement Administration. The Court finds that these documents fairly and
26 adequately apprised Settlement Class Members of their rights under the Settlement. The Court determines
27 that the Parties complied with the distribution of the Class Notice to the Settlement Class in the manner
28 and form set forth in the Preliminary Approval Order, and that the Class Notice provided to the Settlement

1 Class was the best notice practicable under the circumstances and constituted due and sufficient notice to
2 all persons entitled to such notice. The procedures required by the Preliminary Approval Order have been
3 carried out and satisfy due process requirements such that all absent Settlement Class Members have been
4 given the opportunity to participate fully in the claims exclusion and the approval process.

5 5. The Court finds that the Settlement Administrator mailed the Class Notice in English to all
6 Settlement Class Members via First Class U.S. mail in accordance with the Order Granting Preliminary
7 Approval. The Settlement Class Members had thirty (30) days to request exclusion or object to the
8 Settlement by the method set out in the Settlement, including by objection at the Final Approval Hearing
9 more than thirty days after Notice was mailed. The Court finds that this procedure meets the requirements
10 of due process and provided the best notice practicable under the circumstances, and constituted due and
11 sufficient notice to all persons entitled thereto.

12 6. Pursuant to Code of Civil Procedure section 382 and Rule 3.769 of the California Rules of
13 Court, the Court grants final approval of the Settlement as set forth in the Agreement. For settlement
14 purposes only, the Court finds that Gilbert & Sackman, A Law Corporation (“Class Counsel”) has
15 adequately represented the Class and is appointed as Class Counsel solely for the purposes set forth in the
16 Settlement.

17 7. For settlement purposes only, the Court finds that Plaintiffs Todd Westphal, John
18 Mortimore, Manuel Perez, and Christopher Higgins are adequate representatives of the Settlement Class
19 (“Class Representatives”) and appoints them as such.

20 8. The court has reviewed all documentation submitted in support of the request for
21 Enhancement Award for Class Representative for his efforts in bringing and prosecuting this case, the
22 financial risk undertaken in bringing the action, recognizing the scope of the release, and to acknowledge
23 Class Representatives’ willingness to act as a private attorney general. Applying these standards, the Court
24 approves a class representative enhancement award in the amount of \$10,000 to each Class Representative,
25 which the Court determines to be fair and reasonable.

26 9. The Court awards \$1,155,000 in attorneys’ fees and \$15,506.01 in actual costs to Class
27 Counsel, which the Court determines to be fair and reasonable. The Court finds that the forgoing award
28 reflects reasonable payment for the efforts of counsel in prosecuting this class action, and that the costs

1 and expenses reimbursed represent those costs and expenses actually and reasonably incurred in
2 prosecuting the case. Upon entry of this Order, the Court hereby authorizes the Claims Administrator to
3 make payment to Class Counsel as set forth in the Settlement.

4 10. The Court hereby approves a payment of \$9,500 to CPT Group for services as claims
5 administrator.

6 11. The Court directs the Parties to effectuate the Settlement according to the terms of the
7 Agreement, including payment to Participating Class Members in accordance with the terms of the
8 Settlement. The proceeds of any uncashed checks from the Settlement (the "Residue") shall be distributed
9 to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California
10 Civil Code § 1500 et seq., for the benefit of those Class Members who did not cash their checks until such
11 time that they claim their property.

12 12. The parties shall bear all their own costs and attorneys' fees, except as otherwise set forth
13 in the Settlement or this Judgment.

14 13. Judgment is hereby entered whereby Plaintiffs and all Settlement Class Members shall take
15 nothing from Defendants except as expressly set forth in the Settlement Agreement and this Final
16 Approval Order and Judgment.

17 14. Each Class Member who has not opted out has released and is permanently barred from
18 filing or prosecuting any of the Released Claims against Defendants and all of the Released Parties. Class
19 Representatives have released and are permanently barred from filing or prosecuting any of the Class
20 Representatives' Released Claims against Defendants and all of the Released Parties.

21 15. Pursuant to California Rule of Court, Rule 3.769(h), and without affecting the finality of
22 this Judgment, the Court shall retain jurisdiction over the parties to enforce the terms of the Judgment.
23 Pursuant to Code of Civil Procedure section 664.6 and Rule 3.769(h) of the California Rules of Court and
24 without affecting the finality of this Judgment, the Court reserves exclusive and continuing jurisdiction
25 over this Action, Plaintiffs, the Class Members, and Defendants for the purposes of supervising:

- 26 (a) the implementation, enforcement, construction, and interpretation of the Agreement, the
27 Order Granting Preliminary Approval of Class Action Settlement, the plan of allocation,
28 the Order Granting Final Approval of Class Action Settlement, and the Judgment;

- 1 (b) distribution of amounts paid under the Settlement; and
2 (c) final declaration regarding total amount actually paid to the class members.

3 16. The Court orders Class Counsel to file a final report by 9/16^{per CCP 24}, 2023,
4 summarizing all distributions made to the class members, supported by a declaration. Code Civ. Proc., §
5 384, subd. (b). The status conference concerning the final report shall be set for 9/16²⁴,
6 2023, or a date that the Court deems proper. The final report shall be in the form of a declaration from
7 the settlement administrator or other declarant with personal knowledge of the facts, and shall describe (i)
8 the date the checks were mailed, (ii) the total number of checks mailed to class members, (iii) the average
9 amount of those checks, (iv) the number of checks that remain uncashed, (v) the total value of those
10 uncashed checks, (vi) the average amount of the uncashed checks, and (vii) the nature and date of the
11 disposition of those unclaimed funds.

12 17. Notice of this Judgment and of Entry of this Judgment which states that “[o]n [date of entry
13 of Judgment], 2023, the Court entered Judgment in this Class Action Settlement. The Court’s Judgment
14 Re Class Action Settlement is attached.” shall be effectuated by: (a) serving it on the Settlement Class
15 through service upon Class Counsel and Defendant’s counsel by Class Counsel, and (b) posting it on the
16 Claims Administrator’s website. Cal. Rules of Court, rule 3.771(b)).

17
18 IT IS SO ORDERED.

19
20 DATED: 9/14, 2023

21 
22 The Honorable ~~David Cohn~~ Jessica Morgan
San Bernardino Superior Court Judge