

JS-6

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

DAVID A. GARCIA, an individual;

Plaintiffs,

vs.

FREEPORT-MCMORAN OIL AND  
GAS, LLC, a Delaware limited liability  
company; and DOES 1 through 100,  
inclusive,

Defendants.

Case No.: CV 16-4320-DMG (AJWx)

**ORDER GRANTING MOTION FOR  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT AND  
JUDGMENT, ATTORNEYS' FEES  
AND SERVICE AWARD [38]**

Before the Court is Plaintiff's Motion for Final Approval of Class Action Settlement and Judgment, Attorneys' Fees and Service Award.

Plaintiff David A. Garcia ("Plaintiff") and Defendant Freeport-McMoRan Oil and Gas, LLC, ("Defendant") executed a Stipulation of Settlement and Release on November 22, 2019 ("Settlement").

On April 7, 2020, this Court entered an Amended Order: (i) conditionally certifying a Settlement Class consisting of "All current and former hourly employees of Defendant Freeport-McMoRan Oil & Gas LLC, who, at any time from April 1, 2012 through the date of preliminary approval ("Class Period"), worked on oil platforms off

1 the California coast on the Outer Continental Shelf (consisting of submerged lands,  
2 subsoil, and seabed more than three nautical miles off the mainland) for periods of 24  
3 hours or more, stayed offshore overnight, and whose offshore shifts or hitches began from  
4 and ended on California soil” under Federal Rule of Civil Procedure 23(a)-(b);  
5 (ii) preliminarily approving the proposed Settlement as fair, reasonable, and adequate;  
6 (iii) directing the parties to notify the Certified Class of the contemplated Settlement with  
7 the option of excluding themselves; and (iv) scheduling a final fairness hearing to  
8 determine whether the Settlement should be finally approved. [Doc. # 37].

9 The final fairness hearing was held on July 31, 2020. The Court, having heard all  
10 persons properly appearing and timely requesting to be heard, having considered the  
11 Settlement and the papers submitted in support thereof, and having considered the oral  
12 presentations of counsel and all applicable law, concludes that the Settlement is fair,  
13 reasonable, and adequate, and should be finally approved; that Class Counsel should be  
14 awarded \$1,000,000 in attorneys’ fees sought, and \$3,031.20 in costs incurred; that  
15 Plaintiff David Garcia should be awarded a Service Award of \$10,000 for his efforts in  
16 securing this Settlement; and that CPT Group, Inc. should be awarded \$9,000 for their  
17 costs in administering this Settlement.

18 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:**

19 1. This Judgment incorporates by reference the definitions in the Settlement, and  
20 all capitalized terms used, but not defined herein, shall have the same meanings as in the  
21 Settlement.

22 2. This Court has jurisdiction over the subject matter of the Action and over all  
23 parties to the Action, including all members of the Certified Class.

24 3. All Parties are bound by this Final Judgment and Order of Dismissal with  
25 Prejudice and by the Settlement.

26 4. The parties shall comply with the terms and conditions of the Settlement and  
27 of the Final Approval Order. Defendant Freeport-McMoRan Oil And Gas, LLC shall pay  
28 the Settlement funds through the procedure described in the Settlement.

1           5.       The Notice of Class Action and Settlement (“Class Notice”) fully, fairly, and  
2 accurately informed all Certified Class of the material elements of this Action and the  
3 proposed Settlement, and constituted: (i) the best practicable notice; and (ii) notice that  
4 was reasonably calculated, under the circumstances, to apprise members of the Certified  
5 Class of the pendency of this Action, their right to object or exclude themselves from the  
6 proposed Settlement, and their right to appear at the fairness hearing.

7           6.       The Certified Class is made up of 103 individuals, a list of which was included  
8 with the papers filed in support of preliminary and final approval of the Settlement.

9           7.       The Court finds that the notice given pursuant to the Settlement was proper.

10          8.       After proper notice to the Class, and after enough opportunity to object to the  
11 proposed Settlement, no timely and valid objections were made that would present any  
12 obstacle to finally approving the Settlement.

13          9.       All members of the Certified Class who failed to file a timely and valid  
14 objection to the Settlement are deemed to have waived and forfeited any such objections  
15 and are bound by all terms of the Agreement, including the Release and this Final Order  
16 and Judgment.

17          10.      The Court approves the following payments, after which the remaining  
18 settlement funds shall be distributed to the Certified Class pursuant to the terms of the  
19 Settlement and Final Approval Order:

- 20               - Plaintiff David Garcia (as a Service Award): \$10,000.00;
- 21               - Class Counsel (as attorney’s fees): \$1,000,000.00;
- 22               - Class Counsel (as litigation costs and expenses): \$3,031.20; and
- 23               - CPT Group, Inc. (for claims administration fees): \$9,000.00.

24          11.      Except as to any individual claim of those persons who have validly and  
25 timely requested exclusion from the Certified Class, as listed in Exhibit 1 attached to this  
26 Order, the Action is dismissed with prejudice. Class Counsel shall file a notice on the  
27 docket by **August 14, 2020**, clarifying whether the individual listed in Exhibit 1 fully  
28 intended to opt out from the Settlement Class. Thereafter, if necessary, the Court will

1 issue an amended order consistent with the clarification.

2 12. Upon the Effective Date (as defined in the Settlement), all Released Claims  
3 of each member of the Certified Class are and shall be deemed to be conclusively released  
4 as against Defendant. All Certified Members are hereby forever barred and enjoined from  
5 commencing, prosecuting or continuing, either directly or indirectly, against Defendant, in  
6 this or any other jurisdiction or forum, any and all Released Claims (as defined in the  
7 Settlement).

8 13. Without affecting the finality of this Final Judgment and Order of Dismissal  
9 with Prejudice in any way, this Court hereby retains continuing jurisdiction over:  
10 (a) implementation of the Settlement and any award or distribution of the Settlement Fund,  
11 including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and  
12 determining applications for attorney fees and expenses in the Action; and (d) all parties  
13 hereto for the purpose of construing, enforcing, and administering the Settlement therein.

14 14. In the event that the Settlement does not become effective in accordance with  
15 its terms or the Effective Date does not occur, or in the event that the Settlement Fund, or  
16 any portion thereof, is returned to the Defendant, then this Final Judgment and Order of  
17 Dismissal with Prejudice shall be rendered null and void to the extent provided by and in  
18 accordance with the Settlement and shall be vacated and, in such event, all orders entered  
19 and releases delivered in connection herewith shall be null and void to the extent provided  
20 by and in accordance with the Settlement.

21 15. Plaintiff, the Certified Class, and Defendant are denied all relief not expressly  
22 granted by this Judgment.

23 16. This Final Order and Judgment shall not be construed as a finding of the Court  
24 concerning, or evidence of any admission by the Parties concerning: (i) any liability, fault,  
25 or wrongdoing by Defendant; (ii) the existence of any defense to Plaintiff's claims or the  
26 claims of any member of the Certified Class; (iii) the appropriateness of any measure of  
27 alleged damages; and (iv) the propriety of class certification, other than certification for  
28 purposes of settlement only.

1           17.     Entry of this Judgment shall become effective only *after* the Settlement has  
2 been fully funded.

3           18.     Therefore, this Final Judgment and the Order of Dismissal with Prejudice  
4 shall become effective after the date on which the Settlement is fully funded and  
5 implemented in accordance with the Settlement's terms.

6           **IT IS SO ORDERED.**

7  
8 DATED: July 31, 2020

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10 DOLLY M. GEE  
11 UNITED STATES DISTRICT JUDGE  
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**Exhibit 1**

**List of Persons and Entities Excluded from the Settlement Class**

**Pursuant to Request**

1. Ravi Chandra Roy

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